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REPORT

OF THE

Commission of Public Lands

FOR THE

Year Ending June 30, 1902, and supplemental report for the 6 months ending December 31, 1902.

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1903.

REPORT

OF THE

Commission of Public Lands

HONOLULU, July 26th, 1902.

HON. SANFORD B. DOLE,

Governor Territory of Hawaii.

SIR:—

I have the honor to submit the following report on the transactions of this office for the year ending June 30th, 1902.

This Commission is represented in various Land Districts by the following Sub-Agents:

E. D. Baldwin and W. R. Kamanao....1st Land District.
Chas. Williams .....2nd " "
J. Kaelemakule .....3rd " "
W. O. Aiken and D. T. Fleming.....4th " "
Stephen Mahaulu .....5th " "

The latter being also Secretary and Chief Clerk of the General Office.

Lands that have been surveyed and opened during the year, (including those surveyed in former periods) under the various systems of the Land Act of 1895, is shown in the following table:

LAND TRANSACTIONS FOR THE YEAR ENDING JUNE 30, 1902, SHOWING LANDS TAKEN UP UNDER VARIOUS SYSTEMS OF LAND ACT, 1895, (OTHER THAN CASH SALES AND OLAA PURCHASES UNDER SPECIAL CONDITIONS OF PART IX.)

LAND DISTRICT.	RIGHT OF PURCHASE LEASE.			CASH FREEHOLD.			SPECIAL AGREEM'NT			HOME-STEAD.	
	No.	Acres.	Value.	No.	Acres.	Value.	No.	Acres.	Value.	No.	Acres.
First—Hilo and Puna	72	4,588.40	$ 26,238 18	..	....	.....	..	..	.....	..	.....
Second—Hamakua and Kohala	13	599.73	9,342 57	..	....	...	..	....	.....	..	.....
Third—Kona and Kau	11	1,319.31	2,375 39	..	....	.....	..	....	.....	..	.....
Fourth—Maui, Molokai	1	92.46	924 60	..	..	.....	..	....	.....	..	.....
Fifth—Oahu	..	..	.....	..	....	.....	..	....	.....	33	136.29
Totals	97	6,599 90	$ 38,880 74	..	....	.....	..	....	.....	33	136.29

SUMMARY OF ABOVE.

	No.	Acres.	Value.
Right of Purchase Lease	97	6,599.90	$38,880 74
Cash Freehold	..	.....	.....
Special Agreement	..	.....	.....
Homestead Lease	33	136.29	

Under the Homestead lease system no appraisements are made. Rights are inalienable.

The above table shows an increase in land transactions from that of the previous year's report, which also goes to show that small holdings are in demand; from personal observation and from authoritative reports, I am satisfied, with but few exceptions, that they are bona fide homesteaders. And it is a source of gratification for me to mention that the enthusiasm shown by applicants, Hawaiians as well as whites has been sincere.

Most of the lands taken up as represented in above table were in Olaa. The demand for homesteads in Olaa is surprising, and we are supplying the demand as fast as the nature of the land and roads will permit. And it is hoped that the remaining lots in this section will be opened up at an early day, in fact it has been practically so decided.

The advent of the Hilo Railway in this region largely account for the demand, where heretofore transportation was a considerable item, and sometime an impossibility; which was largely responsible for the failure of former homesteaders, has now been practically eliminated, and attendant to the present progress shown by homesteaders in Olaa.

I have great faith that farming will be a success in this, and adjacent tracts.

The demand for homesteads in the other districts has been good and in fact a marked increase of intending settlers desiring land is quite evident.

Several tracts of land in Puna for which surveys have been completed during this period will be thrown open for settlement. There is quite a demand for land in Puna; lack of desirable land has been a set back, as it is well known that Puna is practically covered with Pahoehoe, and lots had to be laid out in pockets, and to suit

the conditions; to lay lots on Pahoehoe is simply waste of time and money.

In Hamakua and Kohala, 38 lots of the Kaapahu, and remaining lots in Pohakea and Paauilo tract have been open up for settlement during a month or so ago, and quite a few lots have been taken up.

Settlement in these districts must necessarily be slow, solely on account of lack of proper transportation facilities and also the impression left upon intending settlers by the drought that very nearly destroyed all developments in these districts during the last two years, as it depends entirely on rain for its moisture. Disastrous fires occurred in the Hamakua forest from the middle of last year to and including the early part of January this year, and unfortunately it originated in the very midst of the drought, consequently the undergrowth was dry and very inflammable, nothing could hinder its progress, though many attempts to check it were made, but such attempts were not successful until a good portion of the forest was burnt.

The burnt district extended from the vicinity of Kukaiau on the Ookala side, to Paauhau and from the 2,500 foot to the 4,000 foot elevation. The damage done to the forest is irreparable, and no one can appreciate it more unless he has personally observed it for himself; the destruction it has done to a once almost inaccessible forest. The matter was discussed at length in a report by the Superintendent of Public Works, who had the supervision of the "putting out" the fire in the Hamakua forest, to you.

Remaining lots in Kaauhuhu homestead tract was also recently opened up for application under the Homestead Lease System of 999 years. No applications have as yet been made for the same.

In Kona, land transactions has been on the decrease, this is occasioned by no new surveys being carried out, and tracts that have already been subdivided have been taken up and such lots that are remaining are of undesirable quality. However new surveys have been completed and will be thrown open to applicants in the near future.

Maui, the above table shows only one transaction during the year, we are confronted with the same problem as exists in the Kona and Kau districts. Contemplated surveys on lands in Maui are being laid out and actual subdivision will be pushed to final completion at an early date.

Kahakuloa. Settlement on this tract has been an absolute failure. Its location and topographical feature and also the more potent factor being the lack of proper roads to and from said tract are greatly responsible for this failure. With proper means of transportation, I think that that portion of said tract known as Makiliua, adjoining Waihee with its boundary along the Makamakaole stream, can be given out to settlers with possible profit, on the balance, homesteading would be nothing but a farce. I would suggest that if the Government could get a desirable bidder for the balance, with a provision for the preservation of the forest, it would be indispensible for the Government to recognize it and put it up under those conditions.

Oahu. The Hauula tract was opened for homesteads under the 999 year lease system and all of the 33 lots have been taken up. The inhabitant of Hauula, who were the principal applicants, are quite contented with their holdings and are doing well.

I had occasion to inspect the Wahiawa land, occupied by a colony of American farmers, in all 13 in number, under the Right of Purchase Lease, on final prove up.

Taking into consideration all they had to contend with, the showing made by them, demonstrates what industrious, progressive and energetic farmers can do. Where once rank Hilo grass and scrub forest were growing can now be seen cultivatable land where experiments have been carried on, some of which have been successful and are producing some profitable results. The immense amount of time, labor and money expended cannot be overestimated by any one who is even familiar with the work done by them.

Kauai. Public Lands on the Island of Kauai, are mostly held under lease, (mostly Crown Land leases) consequently no transactions appears on the above table.

The land of Waioli in Hanalei was some years ago subdivided into lots averaging 50 to 100 acres. No applications were received for same, on account of its mountainous character which made it impossible for any one to conform with the various systems of the Land Act.

This is to be congratulated more than regretted; while the intent is to settle land wherever desirable, yet in this particular instance settlement would have had a disastrous effect on the whole land; its mountainous character in the first place makes it unsusceptible of any cultivation for agricultural purposes, in the second place the inaccesible forest and undergrowth that exists on the land make it undesirable for grazing purposes unless cleared. Under these conditions I consider it fortunate that the land was not taken up, and that this office could deal with the land as it should be dealt, and that is to keep the present forest and heavy undergrowth intact as much as possible.

Land of Aliomanu and Papa. This land was leased to E. J. Morgan in the early part of 1899, with the condition that the Government may at any time take such

portion as are desirable for bona fide settlement purposes, without any reduction of rent. On my visit to Kauai in November last, I made a very thorough investigation of the land, and found a very limited amount of land, which may be found along the bottom of Aliomanu and Papa gulches, which carries the north Anahola stream, and without exaggeration would make ideal homestead lots. The condition that exist there, is anything but undesirable, with an abundant supply of water from the Anahola stream, rich fertile land, I cannot see why it would not be a successful venture. The rest being extremely difficult of excess as it consist mostly of mountain land and from its character, it would be folly to open this portion for settlement.

From the above table you will also note that the Right of Purchase Leases have been the most popular, and can only be accounted to its generous conditions; too much cannot be said in its favor.

Homestead Lease System of 999 years is also becoming very popular, the more intending homesteaders becomes familiar with its working the demand is accordingly greater.

Cash Freehold and Special Agreements transactions, does not appear in above table, because we have not had occasion to apply them to lands that have been opened during the period. These agreements are only applied to such lands that are limited in area and to discourage as far as possible the mere speculator.

CASH SALES.

	Acres.	Price.
Lot 27 Part C., Olaa, Puna, Hawaii.....	4.20	$315.00
Waiohinu, Kau, Hawaii.....	3.35	525.00

The above shows transactions under Cash Sales for the year.

Lot 27 Part C. Olaa, was an undesirable remnant bounded on all sides by private lands, and of no good to hold, it was therefore decided to be sold to the highest bidder and brought in $75.00 an acre.

The land in Waiohinu was sold for church purposes to the Anglican Church of Hawaii.

LAND LICENSES.

Licensee.	Location.	Term.	Annual Rental.
Henry Waterhouse & Co., Trustee for J. H. and Phoebe K. Raymond	Polipoli Spring, Wailuku, Maui	20 years	$ 200 09

This license was granted to the above parties for the purpose of conducting the surplus water from Polipoli spring which is 6,000 feet above sea level by means of pipes, to more advantageous points for supplying their cattle with water, thus avoiding the necessity for their traveling long distances and to such a great height to the same.

They to construct and maintain watering troughs on public lands along its line; this license was also granted in the interest of the development of grazing and agriculture and the enhancing of the values of the public lands of Kamaole, Kahikinui and Kanaio.

GENERAL LEASES.

Date of Lease.	Lessee.	Location.	Area.	Term.	Annual Rental.
*Sept 24, 1901	Samuel Kauhane.	Manuka, Kau, Haw	22,800.00	10 years	$ 75 00
Dec. 21, 1901..	Chin Wo Co.....	Pamama-kai, Honolulu, Oahu.....	17.80	5 "	285 00
Nov. 30, 1901.	Waianae Co.....	Laulaulei, Waianae, Oahu	3,332.00	5 "	9,000 00 Cane land
Feb. 26, 1902 .	Onomea Sugar Co.	Kaapoko, Hilo, Haw	160	5 "	520 00
○ " "	H. P Baldwin...	Koolau, Maui	12,500	21 "	1,100 00
○ " "	" "	" "	6,500	21 "	4,000 00
May 24, 1902..	R. R. Hind	Kahei, Kohala, Haw	455.00	5 "	900 00 Cane land
" "	" "	" " "	86.00	5 "	100 00 "
" "	" "	Opihipau " "	449	5 "	314 00 Grazing land
" "	" "	Hukiaa, " "	380	5 "	266 00 "
† " "	Hutchinson Sugar Plantation Co..	Kiolakaa-Pumakaa, Kau, Hawaii	5,000	21 "	200 00
" "	Pepeekeo Sugar Co	Kaupakuea, Hilo, Ha	210	5 "	600 00 Cane land
†June 28, 1902	A. C. Dowsett ...	Wailau, Molokai...	2,000	21 "	100 00

13 17,160

*This land was leased for grazing purposes. The area designated may mislead such persons that are not familiar with the land of Manuka, and to criticise the action of this Department in leasing such a large area for such an "inadequate" or more properly saying insignificant figure. To justify its action, it is well to explain the situation fully, viz: The land of Manuka is situated in the District of S. Kona and its boundary on the west is the dividing line between the Districts of S. Kona and Kau; and wholly covered with a-a rock, with the exception of about 500 acres of fairly good grazing land. In the disintegrated lava there has in recent years sprung up a very dense forest of Ohia (an indigenious forest tree) which covers about 2,000 acres and may in time cover a greater area.

This 2,000 acres of forest land is impracticable for any purpose, even grazing as the rugged character of the a-a rock prevalent in the Kona district is dangerous to life and limbs of any animal kind, except goats. The rest is simply barren lava waste devoid of any vegetation, arid and waterless. Consequently it simmers down to the fact that the lessee has only practically 500 acres of land from which he can realize anything from. The lease also requiring the lessee to preserve the forest and to reforest same in places where same appears in state of diminution and to keep land where practicable clear of lantana.

°Koolau, Maui. This land was leased in two tracts namely: 1—All that forest land extending from eastern boundary of the Ahupuaa of Honomanu to the western brink of the gulch of Wailua-iki and from ocean to boundary of Haiku above. 2—All that forest land extending from the western brink of Wailua-iki gulch to the western brink of gulch between the lands of Kapaula and Puakea

(or Paakea) and extending from the ocean to boundary of Haiku above. Both are situate on the northeastern side of the Island of Maui.

These leases were sold at public auction under the following condition as to forest, etc. Lessee is prohibited from cutting or allowing to be cut any forest trees, except for fencing and domestic purposes to be used on premises or for development, storage and transportation of water, to replant forest where it appears in state of diminution, it also prohibits the running of cattle on the premises, requires the extermination of wild cattle, lessee to build and maintain a substantial fence along their entire length on upper side of old Government road to prevent stock from trespassing on the land, and not to interfere with vested in terests in water on leased premises, to furnish homesteaders with water for domestic and irrigation purposes at convenient points. These are the principal conditions of the leases.

Main purpose of course, is for water, an article very much sought after by the vast sugar enterprises to the west of this Island.

This land though of an extremely rugged and almost inaccessible character and impossible of cultivation on this account holds a large quantity of water which goes to sea, benefitting nothing and nobody, and the land has never to my knowledge brought any revenue to the Government.

Under these conditions I think the Government is very fortunate in deriving a revenue from these lands, but this is not all, by these leases the Government is insured against the destruction of the forest by the inroad of cattle or from fires. The preservation of the same will conserve water, diverted to arid land promotes enterprises through which the Government collects increased

taxes, taking these facts in consideration, it is without any question that these lands were leased under very favorable conditions.

†Leased under forest conditions. That fencing (and maintain same) the whole area to prevent the inroad of cattle, to preserve and increase forest. These lands have no natural water supply depending mostly on rain for moisture. What water the lessees can conserve and impound is of course appurtinent thereto.

Tables of Receipts.

Receipts Public Lands Office, from January 1st, 1901 to June 30th, 1901.

LAND REVENUE.

Rents:—General Leases	$ 42,977	54	
Right of Purchase Leases	2,750	31	
Olaa Leases	240	31	
Kaimu Leases	3	75	
Miscellaneous	498	80	
Interest:—Homestead	291	50	
Special Agreements.	2,870	94	
Cash Freeholds	15	85	
Olaa Agreements ..	16	65	
Fees	392	00	$ 50,057 65

LAND SALES.

Purchase R. P. Leases	$ 20,512	12
Special Agreements	6,626	41

Homestead	2,369 20	
Olaa Lots	1,104 45	
Kaimu Lots	25 00	
Cash Sales	525 00	$ 31,162 18
		$ 81,219 83

The above shows receipts of this Commission for the 6 months ending June 30th, 1901, which has not as yet been reported. A good showing is made especially in Land Sales, you will notice by comparing this statement with the one hereunder, that the amount is comparatively greater than for the year ending June 30th, 1902. This is occasioned by the purchase price been paid in on agreement falling due during this period.

Receipts Public Lands Office, during the year ending June 30th, 1902.

LAND REVENUE.

Rents:—General Leases	$ 95,577 93		
Right of Purchase Leases	5,266 20		
Olaa Leases	193 23		
Puukapu Leases	21 00		
Miscellaneous	1,233 60		
Interest:—Homestead	355 34		
Special Agreements.	1,087 63		
Olaa Agreements . .	61 00		
Fees	65 50	$103,886 69	

LAND SALES.

Purchase R. P. Leases	$ 9,518 07	
Special Agreements	1,902 14	

Homesteads	1,288 88	
Olaa Lots	12 40	
Cash Sales	315 00	$ 13,036 49
		$116,923 18

The above shows an increase in the receipts of this Commission for the past year, and has fulfilled all predictions made in our annual report of 1900. And it is hoped that it will be increased to a greater amount in the coming year. Leases on lands that bring in insufficient rents, some of which will expire during the coming year will be again leased for more than double the amount that we are deriving from them now.

Activity in land transactions will also be a source of increased revenue, not only for this office, but also for the Tax Bureau.

SURVEY WORK.

This work is still under the supervision of the Government Survey Office.

The following table will show the location of homestead tracts subdivided during the year and aggregating a total area of about 8,000 acres and averaging 10 to 50 acres a lot.

TABLE.

Peter Lee 29 miles Olaa, Kaihenui Settlement 13 miles Olaa, Kiula lots, Papa lots, Kaimu-Makena Section, Kikala-Keokea Section, Keauohana, Kehena, Keekee, Kamaili Section, Malama Section, Kaniahiku Section, Kaimu-Kalapana Section mauka, Keonepoko-iki Section, Oneloa-Ahalanui (not yet opened),

J. Lewis Settlement, 13 miles Olaa, Nailima Settlement, 13 miles Olaa.

Considering that the Survey Office is working under a pro rata basis and the work done is of the most improved and accurate method of survey, I think the above is a very satisfactory showing.

Actual survey work are being carried on the following named lands.

Laupahoehoe lands, N. Hilo, Kiolakaa, Kau, Olaa, 27 and 29 miles. Contemplated.

Mahaiula to Ooma, N. Kona, Alika-Papa, S. Kona, Waimea, Hawaii, Wailua-nui, Keanae, Maui, Waiakoa, Maui, Kanaio, Maui, Waiahole, Oahu, Aliomanu-Papa, Kauai..

It is too much to even assume that the survey work contemplated will be completed during the coming year. But with the present force in hand, a good portion any way will be completed.

STATEMENT OF EXPENDITURES FOR THE YEAR ENDING JUNE 30, 1902.

ITEM.	Appropriation.	Drawn.	Total Drawn	Balance.
Salary of Commissioner	$ 7,200 00	$ 3,600 00	$ 3,600 00	$ 3,600 00
" Secretary and Sub-Agent 5th Land District	4,200 00	2,100 00	2,100 00	2,100 00
" Clerk and Patent Clerk	2,400 00	1,200 00	1,200 00	1,200 00
" Messenger for Registry of Conveyance and Land Office	1,800 00	900 00	900 00	900 00
Pay of Sub-Agent 1st Land District	2,400 00	1,000 00	1,000 00	1,400 00
" Clerk and Ranger 1st Land District	1,200 00	600 00	600 00	600 00
" Sub-Agent 2nd Land District	1,200 00	600 00	600 00	600 00
" " 3d " "	960 00	480 00	480 00	480 00
" " 4th " "	1,200 00	600 00	600 00	600 00
" " 6th " "	720 00	.....	.....	720 00
" Ranger 2nd Land District	720 00	360 00	360 00	360 00
" " 3d " "	720 00	360 00	360 00	360 00
" " 4th " "	720 00	360 00	360 00	360 00
" " 5th " "	720 00	360 00	360 00	360 00
Incidentals (including Land Patent, Books, etc)	5,250 00	.....	.....	.....
Travelling Expenses	.....	876 70	.....	.....
Printing	.....	145 00	.....	.....
Advertising	.....	1,224 52	.....	.....
Office Expenses	.....	1,113 88	3,360 10	1,889 90
Preliminary Roads and Trails	7,000 00	.....	.....	7,000 00
Expenses Filing Boundary Certificates	300 00	70 60	70 60	229 40
Totals	$38,710 00	$15,950 70	$15,950 70	$22,759 30

The above table shows a very small balance in our appropriation for incidentals and amounts to less than the pro rata for the year.

Expenses for printing and advertising has been quite heavy, as new blanks had to be printed to conform to Section 73 of the Organic Act. Activity in land transaction also occasioned a heavy expenditure for advertisements, and cannot be avoided unless we curtail land transaction, to do so would show a lack of progressiveness.

Nothing has been spent on preliminary roads and trails. The difficulty with which this office has to meet in dealing with this question, has yet to be solved.

It is a criticism sometimes made on work of this office that land have been laid out in advance of the construction of roads, whereby smaller value attached to the land itself and the settler was hampered in the operations for lack of suitable roads, both of which statements are undeniably correct.

On the other hand if such opening of lands were held back until suitable roads were completed, would cause an indefinite delay in land transactions, and the results so far achieved would not now be in evidence.

This appropriation can only be expended as designated by the item, that is to say for "Preliminary Roads and Trails," We are about to construct some very necessary work during the coming year, under this appropriation and can only be temporary as the construction of suitable roads rests with the Superintendent of Public Works. However we expect to relieve as far as practicable, the situation for the time being until such time as the Department of Public Works can take the matter of road construction through Homesteads in hand.

The problem which this office has to face is whether to

delay indefinitely the opening of public lands until good roads can be completed, or to meet the demand for lands by rougher immediate means of access with the expectation that improved roads will follow the settlement of lands. I say supply the demand, as an initiative and the rest will shape itself.

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Consideration.	Remarks.
4487	J. M. Lee	July 19, 1901	32.	Olaa, Puna, Hawaii..	$ 346 00	T. Payment
4488	W. A. Keys.... ..	"	22 72	" " " ..	218 82	R. P. Lease
4489	Wm. Kinney . .	"	43.40	Ponahawai, Hilo, Haw.	268 20	"
4490	Peter Carty	"	80.50	Kaohe, Puna, Hawaii.	563 50	T. Payment
4491	Elmer E. Paxton	"	110.09	Kaupo, Hana, Maui .	330 80	"
4492	Anton Montero .	Aug. 19, 1901	20 06	Waipunalei, Hilo, Haw.	165 28	R. P. Lease
4493	Manuel F. Adrian	"	18.47	" " "	184 70	Homestead
4494	Robert McBride..	"	100.	Olaa, Puna, Hawaii...	600 00	R. P. Lease
4495	Asa H. Oleny ...	"	100	" " " .	600 00	"
4496	Antone Carvalho.	"	108.70	Ponahawai, Hilo, Haw.	217 40	C. Freehold
4497	A. G. Serrao	"	15.00	" " "	120 00	R. P. Lease
4498	Rufino Jesus	"	23.06	Kaiwiki, Hilo, Hawai	184 48	"
4499	J. J. Egaras	"	24.79	" " "	198 32	"
4500	W. B. Kalino ...	Sept. 14, 1901	14 95	Waipunalei, Hilo, Haw.	179 40	"
4501	Max Coleman .	"	71.70	Maulua, Hilo, Hawaii.	1,075 50	T. Payment
4502	Joao de Silva Pas	"	41.80	Waikaumalo, Hilo, Ha.	334 40	R. P. Lease
4503	Antone M. Pascincha	"	44.50	" " "	419 00	"

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Continued.*

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Considera-tion.	Remarks.
4504	Wm. Foster	Sept. 27, 1901	30.66	Kaiwiki, Hilo, Hawaii	$ 245 28	R. P. Lease
4505	Jose Gabral	Sept. 14, 1901	103	Nahiku, Koolau, Maui	412 00	"
4506	Francisco Rebelho	Sept. 27, 1901	100.	" " "	325 00	"
4507	Joao d'Olivera...	"	105 20	" " "	289 30	"
4508	A. C. Palfrey ...	"	74.60	Maulua, Hilo, Hawaii	1,119 00	T. Payment
4509	V. Elitcheff.....	10,	97.94	Olaa, Puna, Hawaii..	587 64	R. P. Lease
4511A	S. Kaleopaa	Oct. 22, 1901	20.	Keekee, Puna, Hawaii	60 00	T. Payment
4512	Miss Kane	"	50.	" " "	150 00	"
4510	E. A. Horan.....	Sept. 27, 1901	19.04	Kahuku, Hilo, Hawaii	266 56	Homestead
4511	Joseph Wos	"	100.	Olaa, Puna, Hawaii...	597 48	R. P. Lease
4513	George Rodiek...	Oct. 22, 1901	0.312	Waianuenue and Fr. nt Sts, Hilo, Hawaii..	20,000 00	C. Purchase
4514	Manuel Boze	"	20 82	Ahualoa, Hamakua, Ha	156 15	R. P. Lease
4515	Jose T. Gomes...	"	20 27	" " "	152 00	"
4516	Peter Martins ...	"	15 29	" " "	114 67	"
4517	Manuel Marques..	"	22.84	" " "	170 00	"
4518	Antone Sinas, Jr.	"	66.34	Niupea, Hamakua, Ha	663 40	"
4519	Jems Sanborn ...	"	48.37	" " "	483 70	"

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Continued.*

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Considera-tion.	Remarks.
4520	Jose de Frias ..	Oct. 22, 1901	31.09	Niupea, Hamakua, Ha	$ 248 72	R. P. Lease
4521	Manuel S. Jardin	Oct. 24, 1901	28 50	" " "	228 00	"
4522	Manuel Cabral...	"	68 70	Nabiku, Koolau, Maui	206 10	"
4523	Francisco Torres..	Nov. 5, 1901	108.41	" " "	379 43	"
4524	V. J. Allencastre..	Oct. 24, 1901	102.20	" " "	357 70	"
4525	R. A. Drummond	"	116.	" " "	377 00	"
4526	S. Fukuda.....	Nov. 5, 1901	121.23	" " "	394 00	"
4527	Eliza dos Reis...	"	96.	" " "	336 00	"
4528	Jose M. de Costa..	Nov. 18, 1901	101.78	" " "	279 89	"
4529	Jose M. Pires...	Oct. 24, 1901	68.45	" " "	239 58	"
4530	Antone M. Pires..	Nov. 5, 1901	79.20	" " "	217 80	
4531	Peter Joseph.....	"	96.25	" " "	264 68	"
4532	Francis Martines.	"	25.00	Olaa, Puna, Hawaii..	250 00	C. Freehold
4533	F. G. Snow.....	Feb. 11, 1902	109.65	" " " ..	533 10	Olaa agmnts
4534	" "	"	90 35	" " " ..	271 05	"
4535	Heirs H. J. Kasby	Nov. 7, 1902	20.	Paauilo, Hamakua, Ha	150 00	Homestead
4536	J. A. Maguire....	"	302.	Ooma, N. Kona, "	351 00	C. Purchase
4537	H. G. Junkin	Nov. 14, 1902	4 20	Olaa, Puna, Hawaii ..	315 00	"

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Continued*

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Considera-tion.	Remarks.
4538	A. MacAulton...	Nov. 14, 1901	9 5	Ponahawai, Hilo, Haw	$ 66 50	R. P. Lease
4539	James Finney ...	Feb. 13, 1902	1.89	Tantalus, Honolulu, Oa	665 00	T. Payment
4540	Chas. F. Peterson	Dec. 27, 1901	2.39	" " "	550 00	"
4541	J. F. Hackfeld...	Feb. 13, 1902	1.59	" " "	400 00	"
4542	C. du Roi & J. F. Humburg . ..	"	2 19	" " "	845 00	"
4543	F. Harrison	"	2.00	" " "	850 00	"
4544	A. V. Gear	"	1.50	" " "	600 00	"
4545	Dr. C. B. Cooper..	"	1.10	" " "	610 00	"
4546	A. W. Carter	"	1.20	" " "	420 00	"
4547	Mrs. Josephine C. McStay	18,	109.17	Olaa, Puna, Hawaii ..	599 17	R. P. Lease
4549	Heirs of Mrs. Ana Achi	19,	33.51	Puukapu, Waimea, Ha	100 50	"
4550	Joao Francisco ..	14,	17.50	Kaapahu, Hamakua, H	165 00	"
4551	Joao de Camara..	"	19.80	" " "	198 00	"
4552	Francisco Frietas	"	19 40	" " "	194 00	"

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Continued*

No. of Patent	Patentee.	Date Issued.	Area.	Location.	Consideration.	Remarks.
4553	Francisco M. Espinda	F b. 14, 1902	19 50	Kaapahu, Hamakua, H	$ 195 00	R. P. Lease
4554	Joao F. Affonso .	"	17.	" " "	85 00	"
4555	Luis Dias . ..	18,	21 52	Ahualoa, " "	161 40	"
4556	Geo. Lycurgus Tr. for Jno. Lycurgus.....	Jan. 13, 1902	.56	Hilo, Hawaii	15,000 00	C. Purchase
4557	Geo. Scheible....	Feb. 14, 1902	12.26	Nanawale, Puna, Haw	73 38	R. P. Lease
4558	Lizzie K. Kapualoha	24,	34.80	Kamaili, " "	210 00	T. Payment
4559	P. J. Rehn	26,	17 83	Nanawale, " "	106 98	R. P. Lease
4560	C. Slavin .	March 6, 1902	100	Olaa, " "	600 00	"
4561	Chas.M.Cooke,Ltd	18,	7 29	Luakaha, Nuuanu Valley, Honolulu, Oahu	1 00	L. Exchange
4562	J. K. Kapele	29,	58 40	Kehena, Puna, Hawaii	205 00	T. Payment
4563	Kaui	"	60.	" " "	191 00	"
4564	W. Kaanaana ...	"	16.69	Puukapu, Waimea, "	41 30	R. P. Lease

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Continued.*

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Considera-tion.	Remarks.
4565	Hee Akona.....	Mch. 29, 1902	16.47	Puukapu, Waimea, Ha	$ 41 15	Puukapu L ts
4566	C. Luiki	"	20 69	" " "	51 72	R. P. Lease
4567	T. McKinley	"	17.40	Paana, Hilo, "	90 00	T. Payment
4568	Dr. L.S.Thompson	"	19.85	Kahuku, " "	265 09	"
4569	Antone Lopez ...	"	10.25	Waipunalei, Hilo, Haw	125 00	Homestead
4570	Antone Jardin...	"	17.67	" " "	176 70	"
4571	Manuel Repoze ..	"	17.51	Ahualoa, Hamakua, "	131 32	"
4573	G. B. Ferrira	"	17.	" " "	170 00	"
4574	Joao Nobriga ..	"	15.29	" " "	114 67	"
4575	George Osborne..	"	100.44	Niupea " "	774 40	T. Payment
4576	A. C. de Souza...	"	34.50	Awini, N Kohala, Haw	139 00	"
4577	W F. Frear.....	"	3.70	Tantalus Heights, Honolulu, Oahu	1,125 00	"
4578	J. A. Magoon ...	24,	1.235½ fath	Waipunaula & Kiloa-Nui, Kona, Hawaii..	1 00	Compromise
4579	J. d'Estrella.....	29,	90.13	Nahiku, Koolau, Maui	247 85	R. P. Lease
4580	Estate Wm. Foster	May 16,	79.70	Pohakea, Hamakua, H	1,175 00	T. Payment

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Continued.*

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Consideration.	Remarks.
4581	John Utterstrom	Mar. 27, 1902	15.50	Ponahawai, Hilo, Haw	$ 345 00	C. Freeh ld
4582	Liliuokalani.....	24,	1.90	Hamamakawaha, Ma-noaValley, Kona, Oa	1 00	L. Exchange
4583	J. H. Schnack...	"	.030	Printers Lane, Honolu'u, Oahu	249 00	"
4584	L. L. McCandless	25,	27.07	Kaneloa, Waiahole, Oa	1 00	"
4585	John T. Brown...	24,	1.614	Ponahawai, Hilo, Haw	1 00	"
4586	Geo. H. Holt & Annie H. Kentwell	"	.096	Beretania & Kekaulike sts., Honolulu, Oahu	1 00	"
4587	Dr. Chas. B. Cooper	"	12,750 sq. ft.	Makiki, Kona, Oahu..	1,650 00	"
4588	Wm. C. Achi	"	1000.	Honomalino, Kona, Ha	1 00	"
4589	Mary E. Foster .	June 16, 1902	1.95	Tantalus, Honolulu, Oa	1 00	"
4590	Est. John H. Coney	April 21, 1902	4,435 sq. ft	Miller St., " "	1 00	"
4591	J. Kalanianaole & D. Kawananakoa	26,	16,700 "	Auwaiolimu, " "	1 00	"
4592	Lucy K. Peabody	26,	3	Waimea, Kohalo, Haw	1 00	"
4593	Frank Pahia.....	10,	2,748 sq. ft.	Kamakela, Honolulu, O	1 00	"

STATEMENT OF LAND PATENTS ISSUED DURING THE YEAR ENDING JUNE 30TH, 1902.—*Concluded.*

No. of Patent.	Patentee.	Date Issued.	Area.	Location.	Consideration.	Remarks.
4594	Eben P. Low	May 16, 1902	116.10	Puuanahulu, Kona, Ha	$ 290 25	T. Payment
4595	M. Keliikuewa...	"	38.90	Kaapahu, Hamakua, "	389 00	R. P. Lease
4596	Joao Freitas.....	"	17.90	Waipunalei, Hilo, "	179 00	"
4597	G. Seitz...	"	74.	Paauilo, Hamakua, "	882 62	"
4598	Estate David Koki	"	20.97	Puukapu, Waimea, "	104 85	"
4599	Liliuokalani	June 4, 1902	2.56	Kamookahi, Kapalama Oahu	1 00	L. Exchange
4609	Bernice Pauahi Bishop Estate..	16,	1,074 sq. ft.	King St., Honolulu, Oa	1 00	"

The above table shows an increase in number of Land Patents issued during the year over that of any previous year, and has kept the office staff hard at work to accomplish this, which requires the exercising of considerable care, as the least error might create confusion or even litigation.

LAND PATENTS ISSUED ON LAND COMMISSION AWARD DURING THE YEAR ENDING JUNE 30TH, 1902.

No. of Patent.	Patentee.	Location.
8117	V. Kamalu	Onomea, Hilo, Hawaii
8118	Puhau	Kalihi, Honuaula, Maui
8120	Kaunuohua for W. L. Moehonua	Kalihi, Kona, Oahu
8121	" " " "	" " "
8122	" " " "	" " "
8123	A. Keohokalole	Paauhau, Hamakua, Hawaii
8124	W. C. Lunalilo	Kapahulu, Waikiki, Oahu
8125	Mainui	Hilelea, Kauai
8126	W. P. Leleiohoku	Moeauee, N. Kona, Hawaii
8127	Fanny Young	Pahoehoe 2, S. " "
8128	R. Keeaikolani	Kealia, " " "
8129	W. C. Lunalilo	Honolua, Kaanapali, Maui
8130	K. Kekuanaoa	Honokohau, " "
8131	Nalepo	Waiohonu, Kau, Hawaii
8132	M Kekauonohi	Naiwa, Kona, Molokai
8133	Nawali	Ninole, Kau, Hawaii
8134	Mahi	Pelekunu, Molokai
8136	Kaleimoku	Waiokama, Lahaina, Maui

From present out look and from applications on file, the number of Land Patents to be issued on Confirmation of Land Commission Award during the coming year will far exceed in number that appears of the above table.

The above will give a graphic review of the transactions of this Commission during the year. Comparing it with the reports of previous years the showing made exceeds my most sanguine expectation.

Taking into consideration that the last Legislature probably through an economical disposition struck out of the Salary appropriation Bill 2 items which were very necessary to the efficiency of this Commission. Though fully explained to Committees who visited and investigated the requirements of this office, but without avail, consequently we made the best of it, economizing at every possible point, the results above accomplished does not only reflect credit on the staff at my disposal, but to the office in general.

The greatest interest is shown in the protection and propogation of the Forest of this Territory not only by the Territorial & Federal Governments but also by Co operative bodies and private individuals, and recognized by all as a very important matter to be considered.

The question was dwelt on at length in report by Expert Forester E. M. Griffith to you on the condition of the Hawaiian Forest.

Mr. Griffith states the situation admirably and to the point, and his suggestions should receive earnest consideration.

This Commission has in recent leases of public lands where forest land is included, made reservations for its protection, and will carry this rule in all future leases.

Contemplated staking out of lines for forest reservation is being laid out and will be prosecuted on the ground,

as soon as practicable, and when the surveys are completed, the plans will then be submitted for your consideration. Allow me to say that any steps that may be taken for the preservation and propogation, of our now, very much denuded forest, will receive the co-operation of this Commission.

Respectfully submitted

EDWARD S. BOYD,

Commissioner of Public Lands.

APPENDIX.

In view of a Bill introduced by Hon. R. W. Wilcox Delegate from this Territory in the House of Representatives 1st. Session 57th. Congress of the U. S. on December 6th. 1901. To provide Special Land Laws for the Territory of Hawaii, and as its provisions were apparently drawn by someone who is not familiar with our local condition, utterly disregarding its physical and legal aspect, and had it been put into effect, it would cause an irreparable injury to this Territory, and would also have been mischievous in the extreme to the public interest. Knowing this to be a fact is was the plain duty of the administration here to send someone to Washington who is conversant and familiar with its condition and requirements, and who could advantageously present the question before the Authorities there, and at same time be at their disposal when they should require information that would facilitate their deliberations in the matter. And as this question directly and specially appertains to this Commission, I as its Commissioner was instructed to proceed to Washington, and was presented

with the following letter of introduction from you to the Hon. Secretary of the Interior which explains itself. viz:—

Jan. 13th. 1902

The Honorable E. A. Hitchock.

Secretary of the Interior, Washington D. C.

Sir:—

I take pleasure in introducing to you Mr. Edmund S. Boyd, the Commissioner of Public Lands for the Territory of Hawaii.

I have thought it advisable to send him to Washington to furnish information in relation to the Public Lands of these Islands and the Hawaiian land system in view of the possible consideration by Congress of the subject or of any changes in the Hawaiian land laws.

Mr. Boyd is well informed upon land matters, having been several years in the land office under Mr. J. F. Brown, the former Commissioner of Public Lands.

I should be sorry to have the American land laws extended to these Islands, as they are unsuitable for our conditions, particularly the Hawaiian topography, and the dependence of any advance in forestry development upon a system especially guarding that interest.

Mr. Boyd will be at your service during his stay in Washington. I should be pleased to have him meet the President if that can be arranged.

I am the honor to be, sir,

Very Respectfully,

SANFORD B. DOLE.

I reached Washington on the 28th day of January last, and immediately proceeded to business. I called on the Secretary of the Interior and stated my mission to him, who, in return, referred me to the Commissioner of the General Land Office. The Commissioner took a great interest in what I have to say, and the success of my mission there was mostly through his voluntary aid.

On his request I addressed him two communications. First:—

Washington, D. C., February 6, 1902.

Sir:—

In accordance with your request, I beg to submit a review of the conditions of the public lands of the Territory of Hawaii.

To begin with, allow me to say that the peculiar physical conditions of the islands cannot be fully illustrated or presented to you in writing. However, I will present the situation as I can.

There is on the main islands of the group the greatest diversity of topographical features, climate, and quality of soil, which presents an important matter for consideration, and can only be appreciated when viewed on the ground.

Rugged mountains, deep, narrow valleys, flat marsh land and high mountain pastures, rich alluvial soil and barren lava wastes, and every graduation between them are to be found not only on a single island, but not infrequently in a limited portion of a single district. The volcanic origin of the islands, the unequal distribution of rainfall, and the rapid rise from sea level to high elevations account for the wide diversity indicated.

The windward sides of the islands (north to northwest) are in general well watered; the leeward sides are more rocky and drier, but with richer soil.

Owing to the peculiar conditions above recited, the land laws of the United States cannot equitably be applied in Hawaii.

No one familiar with land transactions, and who has not made personal examination of the peculiar conditions which arose from the division of lands made by Kamehameha III., in 1848, is competent to say what system would be the most beneficial to the Territory.

A system that would be appropriate for any one island in many cases would be injurious to other lands within the same limited district.

No hard and fast rule can be established which would not work injury to the interests of the islands, and considerable discretionary powers must be lodged in the official on the ground.

FOREST PROTECTION AND WATER SUPPLY.

There are many rugged inaccessible lands which serve as a watershed for the purpose of diversion to lands that have no water supply. It is certain that the forests on the islands have a strong and definite influence on the water supply, and their preservation is essential to the welfare of the Territory. This matter needs careful consideration.

Land suited for coffee, sugar, and other agricultural products, grazing, etc., must receive treatment according to the special needs of each industry and to local conditions. In some cases bona fide homesteaders could not be induced to enter land under any terms, and, in order that the Territory may derive benefit from these lands, each tract may require treatment varying more or less from that adjoining it.

A MEASURE OF SUCCESS.

Here it is worth while to note that the efforts at homestead settlements have only had a measure of success on land in close proximity to sugar plantations or towns. Isolated tracts have proved unconditional failures.

The results so far have not been encouraging, considering the honest effort made for so long a period to establish small land holdings, and yet certain good results have come.

The old method of leasing large tracts for long terms and for inconsiderable rents without auction sale, conspicuous in early leases of Crown Lands, has nothing to be said in its favor. The Land Act of 1895 permitted a lease for a term of twenty-one years, but only by auction sale, which term for any agricultural land is now limited to five years.

Some lands we have are simply deserts, except when irrigated by pumping at immense expense, which it is only worth while to do in connection with other lands owned by private parties. For such lands under such treatment high rentals can be obtained and through the public treasury the whole country is the gainer.

By the method above referred to, lands that had lain for generations wholly unproductive were opened up. Roads were built and homes established, and in spite of the discouraging number of those who sold out their holding as soon as they could do so, the number of small landholders was increased and even the holding that were sold because in other lands parts of the productive area of the country.

In other cases public lands frequently lie "sandwiched" between private lands in such manner that they are of but little use to anyone except the adjoining owner (usually the plantation) and for which he will pay a good rent. To give these lands away under the pretense of

"homesteading" would mean the loss of tens of thousands of dollars annually to the public, and the homestead result would be nothing of consequence. The dry-land homesteader could do nothing with his land unless the proprietors of pumping works would supply him with water. The homesteader on a "sandwiched" tract, surrounded by private lands, would have for one serious difficulty the question of a road by which to reach his land.

There are in round numbers about 1,720,000 acres of public land, and it might seem that some considerable portion would furnish a field for new efforts to make homesteads. But such inference I can not draw. At least 500,000 acres of this area are in the class of positive barren lands that cannot be reclaimed, and rugged, inaccessible mountain tracts that are apparently hopeless for homestead purposes. Over 1,000,000 acres are classed as grazing and high forest land, and though no one would be so rash as to say there is no agricultural possibility for at least a portion of this area, the fact remains that such possibility has never been demonstrated by any profitable use of the same.

There remain about 200,000 acres to be considered. About 26,603 acres of this last are cane and rice land. The remainder is, in general, not so good as the lands already disposed of, being more broken and difficult of access. Unless some new and productive industry is developed in the country it is difficult to see why future results should differ greatly from those of the past. At least I do not expect to see much difference. A slow progress is possible and probable, and favored portions can be opened up and the sine qua non of roads furnished. To attempt more than this will probably have little result other than to waste what land remains and disappoint many who might be tempted by apparently easy terms to attempt the impossible.

In formulating laws it is also necessary to bear in mind the fact that in the islands two pieces of land in immediate vicinity of one another would in many cases have values varying from a few dollars an acre to a large amount. In some cases natural obstacles may be overcome and these values might be more nearly equalized by a judicious view of the peculiar conditions, both physical and legal, surrounding each individual tract of land.

And, in conclusion, I suggest that whatever changes may be made in the land laws of Hawaii they be made only after due investigation by some thoroughly competent person, who shall look into the matter there on the ground—in Hawaii.

I remain, yours respectfully,

EDWARD S. BOYD,
Commissioner of Public Lands of the Territory of Hawaii.

HON. BINGER HERMANN,
Commissioner General Land Office, Washington, D. C.

A BRIEF AND ARGUMENT AGAINST BILLS INTRODUCED IN CONGRESS TO PROVIDE SPECIAL LAND LAWS FOR THE TERRITORY OF HAWAII.

If a new land act is passed it should be new de novo without reference to existing land laws of the United States, and all of the old laws of Hawaii should be specifically repealed.

If it is desired to simply amend the present laws, they should, where it is considered desirable, be repealed, section by section, and appropriate substitution should be made.

In no other way will it be possible to prevent ambiguity and uncertainty. The various issues of the United States land scrip, as an instance, might cause complications.

Under the present laws the official of the Territory can act according to the urgency and the exact needs of the situation. Should the proposed bill pass or become a law, one of the difficulties to be overcome (and there would be many others) would be this: Hawaii is 2,100 miles from the mainland of the United States, and the expense for the removal of a family from the States to the islands is large. We do not want the rover and adventurer. The industrious and conservative farmer will not break his home ties and go to a country from 2,000 to 5,000 miles from his home, with nothing but great uncertainty before him.

Should the public lands of Hawaii be opened for settlement according to the proposed act, it is more than probable that before the number of the latter class necessary to settle a small portion of the vacant land could be in-

duced to make the long and costly journey, the former class, aided perhaps by others, would have seized, in one way or another, all the remaining lands of any value.

Section 1:—What will happen to these lands prior to the reservation within one year, if they are not accepted by the Secretary of the Interior until then? The most valuable lands would be homesteaded immediately upon the taking effect of the act. There are no incorporated cities in Hawaii—or likely to be until the next session of our legislature in 1903, or as may be provided by Congress. Do you intend to hold these lands as reservations until we organize such incorporated cities? The wording in the bill, especially this section, is, I think in conflict with our existing condition, and would not allow us to take such action as would develop the progress of the islands without long delay.

Classification, as stated in this section, is arbitrary and illogical, for the reason that the greatest diversity of topographical (and not infrequently hydrographic) features exist on the islands which do not confront you here.

Section 2:—I have no comment to make, except that the governor, who has this matter under control, has also the general supervision of their disposition.

Section 3:—That the reference to the General Land Commissioner under the laws of the United States is general in terms. I think that if a new land law for the Territory of Hawaii is to be enacted the duties of the Land Commissioner affecting Hawaiian lands should be specifically stated in the act, independent of his duties as General Land Commissioner of the United States.

Section 4:—The chief officers in charge of this department should be stationed in the capital of the Territory.

Section 5:—There should be but one office controlling the lands in the Territory, who should have the direct supervision of all land transactions.

I make no objection to the clause in re fees. It is immaterial as to what disposition is made from funds of public lands between the times of collection and disbursement for the benefit of territory under the provisions of the anexation resolution.

Section 6:—I beg to refer to my comments on section 1.

Section 7:—There are many cases where the system, as quoted in this section, of laying out lots and roads is wholly impracticable. This is one of the important matters that needs personal examination and expert knowledge; the difficulties could be shown on the ground that can not be described verbally. There should be discretionary authority given to divide the land into lots suitable to the location and surrounding conditions.

Relative to the second-class lands, as described and required under this section, it is, I think, an injustice to the Territory. In the first place the opening of lands should be with due consideration and bona fide purposes. Speculators would have a good field under the provisions of this section, and the arbitrary appraisement is wholly inadequate, for the simple reason that a good many of our public lands are inaccessible mountains, deep, narrow valleys, flat and swampy lands, high mountain pastures, rich alluvial soil and barren lava wastes, and every gradation between them are to be found not only on a single island, but not infrequently in a limited portion of a single district. In some cases these natural obstacles may be overcome, and value might be more nearly equalized by a judicious view of the peculiar conditions, both physical and legal, surrounding each individual tract of land.

Section 8:—Comment same as above.

Section 9:—Under this section there would be disqualfied only a comparative few, or those who have heretofore

taken up public lands and therefore have alienated them to corporations and others.

Section 10:—Anyone owning over an acre of land in any state or territory must, before entering, first dispose of his holding before he can enter lands in Hawaii. Will any desirable homesteader do this, then make the long journey and trust to luck to obtain a tract of land with which to better his condition?

He may own two acres of land near a small village in some part of the States worth, say, $100, but he may not enter land in Hawaii. But another owning a corner lot in a large city, 50 by 100 feet, worth $50 a square foot, with a costly building and heavy rental, may enter public lands and obtain title at a nominal sum.

Section 11:—I would prefer not to comment on this section. Except only as an American citizen I recognize the service of the army and navy of the United States even prior to the annexation of the Hawaiian Islands. If, in your mature judgment, the laws of the United States, which recognize the value of their services, should be applied to the lands of the Territory of Hawaii, we submit the question for your consideration.

Section 12:—In my opinion no reference should be made to the United States land laws, but that such portions of the same as are equitable and proper should be specifically incorporated, literatim et verbatim, in the laws enacted for the Territory of Hawaii.

Section 13:—Comment same as above. No general reference.

Section 14:—No comment to make.

Section 15:—I make no comment on this section, except that such official should be as before stated. (See Section 4.)

Section 16:—Between dates mentioned in this section, that is to say, disposition of lands subsequent to July 7,

1898, I wish to call your attention to the fact that in section 73 of our organic act, among other matters therein mentioned, is to be found the following quotation:—

"That, subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian Government in conformity with the laws of Hawaii between the seventh day of July, eighteen hundred and ninety-eight, and the twenty-eighth day of September, eighteen hundred and ninety-nine, are hereby ratified and confirmed.

"Those transactions between the dates mentioned have been approved by the President; those subsequent to the latter date have been disposed of, and patents issued under authority from Washington.

Section 17:—I would say the old method of leasing lands for long terms and for inconsiderable rents, without auction sales, conspicuous in early leases of Crown Lands, has nothing to be said in its favor. The land act of the Territory as it at present stands permitted a lease for a term of twenty-one years, but only by auction sale, which term for agricultural lands is now limited by the organic act to five years.

Some lands we have are simply deserts, except when irrigated by pumping at immense expense, which it is only worth while to do in connection with other lands owned by private parties. For such lands under such treatment, high rentals can be obtained, and through the treasury the whole country is the gainer.

By the method above referred to lands that have lain for generations wholly unproductive were opened up, roads built, homes established, and in spite of a discouraging number of those who have sold out their holdings as soon as they could do so, the number of small landholders was increased, and even the holdings that were

sold became in other hands part of the productive area of the country.

I would suggest that provision be made that such lands as are unfit for homestead purposes, except by the expenditure of a considerable amount of money necessary for for the preliminary preparations, and such lands as are wholly impracticable for any cultivation, that would enable the leasing of the same. If leasing of land is prohibited there would be a loss of revenue to the Territory, until such sufficient number of homesteaders are induced to settle upon the same. By leasing these lands to those who can improve them for such terms the Territory does not only retake possession of the land, but also the improvements made thereon, which the homesteader cannot afford to make.

After we receive the lands back, improved and made possible for agicultural purposes, then in many cases we will be able to induce homesteaders to take up the lands so improved.

Section 18:—No comment.

Section 19:—There seems to be a want of progressiveness in this section. For instance, and referring to previous sections of this bill, relative to price per acre at which land can be taken up.

You know that surveys are expensive and the necessary incidentals thereto are enormous; consequently, I think that when the United States is reimbursed for all its expenditures the Territory's share will be in many cases hardly anything. This is inconsistent with progressive intentions.

Section 20:—I think the only way our public land can be disposed of to advantage for the inhabitants of the islands is by having the officer appointed by the governor, by and with the advice and consent of the Territorial

senate, who, being on the ground, can give the necessary individual treatment which will be required in a majority of cases to secure satisfactory results; his actions to be restricted as by law required, and that with the approval of the governor. Having the interest of the Territory at heart, and being familiar with the absolute wants of the people, he, I think, will be better able to cope with the situation, better so than if the authority was vested in the Washington officials. What we want is good settlers, and such land as can not be settled put to the best advantage, and through the public treasury the whole country will be the gainer. To do this, for reasons I have stated, can only be done by local officials familiar with the situation and responsible to the citizens of the Territory through its legislature.

Section 21:—No comment.

Section 22, paragraph 2:—Here in the United States, for many causes, of which a good instance would be the long rivers which pass between and through the various states, causing interstate rights and obligations, the control of water courses must properly remain with the Federal Government. In a very large number of cases, if not in all, various private and public rights would prevent any use being made of the waters by any corporation or individual, and governmental systems of storage and rules may be deemed necessary by Congress. In the Territory, however, these complications do not exist, and in a number of cases private capital is willing to do the work necessary to use the surplus waters. I think that, as the question of irrigation is so important to the welfare of the Territory, this matter also should be left to the discretionary powers of the Territorial officials.

Sections 23, 24, 25, 26, 27 and 28:—No comment.

It may be said that my arguments have been merely destructive, and that I do not offer to show in what

manner the errors of the bill may be corrected. My reply is that I do not pretend that I have the experience or the ability to formulate a perfect code for the management of so serious a problem. I do know the conditions as they exist in Hawaii, and I want you to know them. When our knowledge of the present situation and the future possibilities of the islands have been joined to your mature experience in practical legislation, the results will be satisfactory to those who have the interest of Hawaii at heart.

If I shall convince you that the proposed bill would not be advantageous to the Territory and that the land laws of the United States should not be applied to Hawaii, I ask you to examine the laws now in force. With these maps of the islands before you, and in view of the peculiar conditions existing there, I think that your examination of our laws will show you that they were prepared with the intention, at least, of meeting local necessities.

There may be particular portions of the law, which, in your judgment, should be amended. If, knowing the present conditions thoroughly, such amendments are ordered by you, all I ask is that you make them with a view to such conditions.

Respectfully submitted.

EDWARD S. BOYD.

The above communications were enclosed in a report made by the Commissioner of the General Land Office to the Secretary of the Interior as follows:

Department of the Interior,

General Land Office,

Washington, D. C., March 11, 1902.

Sir: I have, by your reference for report, H. R. bill 3090, and Senate bill 1344, both entitled, "A bill for providing special land laws for the Territory of Hawaii." These bills, although one introduced in the House of Representatives, and the other in the Senate, appear to be identical in both their language and provisions, and will therefore be treated as one bill.

Section 1 of this bill divides public lands of Hawaii into four classes: Class 1, embracing lands occupied for urban purposes, lands within 2 miles of the incorporated limits of cities and towns of 500 or more inhabitants, and such other land as may be reserved for town site purposes within one year from its passage; the other three classes embracing agricultural and pastoral lands, classified according to location, charater and value for agricultural purposes.

A lack of knowledge as to the character of these lands prevents this office from expressing any opinion as to either the correctness or advisibility of the classifications made.

Section 2 and 3 of the bill confer upon your department and this office the same powers and duties relating to Hawaiian lands that are now exercised elsewhere in the United States subject to the limitations mentioned in the bill. This office is of the opinion that such a provision should be enacted, as it is not believed the best policy dictates that our outlying lands belonging to the United States should be disposed of by insular bureaus and under systems of laws which materially differ in their germinal principles from the system now operated

through this office and your Department—a system representing the development and growth of one hundred years' experience.

Section 4 provides that the entire Territory of Hawaii shall constitute a surveyor-general's district, with its office located at Hilo, and authorizes the appointment of a surveyor-general with a salary of $4,500 per annum.

This office is not aware of any urgent necessity demanding that the surveyor-general's salary be fixed as high as this. By reference to the act of March 3, 1901 (31 Stat., 960), it will be seen that the salaries of the surveyors-general now range from $1,800 to $2,000, excepting that $4,000 is fixed as the compensation for the surveyor-general of Alaska, who, in addition to the usual duties of surveyors-general, is also ex-officio secretary, and in the absence of the governor, ex-officio governor of that district.

This office is not advised of any reason why the surveyor-general's office should be located at Hilo, and can not, therefore, make recommendations that it be so established.

Section 5 authorizes the President to establish two land districts, with land offices at Hilo and Honolulu, and directs the appointment of a register and receiver for each of these offices, with a salary of $3,000 to each of them.

Section 2237, Revised Statutes, fixes the salaries of registers and receivers at $500, and section 2238, Revised Statutes, allows them as an additional compensation certain fees and commissions enumerated therein; while section 2240, Revised Statutes, limits the maximum amount to be received by them, including both salary and fees, and commissions, at $3,000. No exception has heretofore been made to the rule thus established except by the act of July 1, 1898 (30 Stat., 618), which increases

the salary allowance to registers and receivers in Alaska to $1,500 per annum, without changing maximum fixed by section 2240, supra.

No reason is apparent to this office why a different rule should obtain in fixing the salary allowances for registers and receivers in Hawaii at a different amount than that fixed for like officers in the United States.

Attention is called to an error, evidently clerical in its nature, in line 5 on page 5 of this bill, which provides that all public moneys collected by registers and receivers shall be paid monthly to the Secretary of the Treasury and "duplicate amounts" to be transmitted to this office. Evidently the printer made "accounts" read "amounts."

Section 6 of this bill provides that all lands of the first class shall be selected, located, listed, and reported to the President for further action by Congress. No good reason appears to this office why lands of this character should not be subject to the general provisions of the town-site laws now in force in the United States, and it sees no reason why these laws should not be extended in extenso to these islands. It is not conceived that any conditions exist there which could make the execution of these laws inapplicable, and surely there are no conditions which could not be met with very slight modifications.

In sections 7 and 8 of the bill it is provided that the Hawaiian lands "Shall be surveyed according to the township system." If this bill is to become a law, it is suggested that the word "Rectangular" should be substituted for the "township" wherever it occurs in this connection, since "rectangular" is the word used in sec. 2419, R. S., and elsewhere in the public land laws and regulations thereunder, to describe the system of land surveying now in vogue in this country.

It is also observed that these sections provide that from two to four rods surrounding the exterior of each section and fractional lot is to be reserved and dedicated for use as public highways. This is a departure from legislation heretofore enacted by Congress. The location and establishment of public highways for the use of the people is a matter that has been left to local authorities, under the control of the State and Territorial laws. While this system of government dedication of lands for this purpose has been pursued in the Dominion of Canada, it is not believed to be justly applicable to a country having a topographical conditions which exist in Hawaii. The reservations provided for in this bill amount to a dedication of from 32 to 64 acres of each section, or from 5 to 10 per cent of all the public lands, for roads, and to a much greater amount in the case of a small fractional lot to which it is also made to apply. This would seem to be an extravagant appropriations, especially when the value of the kalo or taro lands is taken into consideration. It is here observed that there does not appear to be any practical need for a law with the specific provisions as to public land surveys which are contained in this bill. Heretofore the system of survey applied to lands brought under the jurisdiction of our public land laws has been accomplished by a simple enactment, as was done by the Act of March 3, 1899 (30 Stat. 1098), where it was provided that "The system of public land surveys is hereby extended to the district of Alaska." Since that system provides not only for the surveying of lands in rectangular form and into townships, but also for the surveying of small tracts covered by private holdings and of irregular shapes, it is not seen why such extension would not accomplish in Hawaii all that is desired to be accomplished, and all that has been accomplished in New Mexico,

Arizona, and California, where similar conditions existed at the time the lands were ceded to the United States.

With reference to the provisions of this Act, which provide for the disposition and sale of these lands other than those occupied by town sites, I will remark that a lack of definite knowledge as to the exact conditions existing in these islands prevents this office from reporting on these bills in detail with explicit recommendations to meet all of their provisions. The latest information available on this subject is to be found in the report of the Governor of the Territory of Hawaii for the year 1901, under the title "Public Lands," and valuable suggestions are also made in a communication addressed to your department by Mr. Edmund S. Boyd, Commissioner of Public Lands for Hawaii, under date of February 6, 1902, and also in a letter addressed to this office by Hon. W. H. Hoogs, a member of the Hawaiian Legislature, copies of which you will find attached hereto for your convenient consideration.

In the consideration of this matter we are met by a very great diversity in topographical features as well as by peculiar mineralogical conditions. The volcanic origin of these islands, their size, and their rapid rise from the sea level, produce rugged mountains, deep, narrow valleys of rich alluvial soil, flat, marshy lands, high mountain pastures, and barren lava wastes, lying in close proximity, and indiscriminately mingled one with the other. Sush mineralogic conditions practically unknown in the administration of the public land laws within the United States, the windward side of the mountains being watered by copious rainfalls, while the leeward sides are dry and practically arid, demanding irrigation by artificial means, and generally accomplished by costly pumping stations.

There are many rugged, inaccessible lands which serve

as watersheds to divert the water supply to other lands, and it is believed that the forests of the islands have such a strong definite influence on the water supply as to make their preservation essentially necessary. These conditions make possible, in fact demand, a greater variety of agricultural crops than have heretofore been encouraged and fostered under our homestead laws. Ranging as Hawaiian products do, from native plants, sugar and coffee, to the ordinary cereals, their production calls for methods of cultivation not well known and appreciated in this country.

All of these conditions present features which have not heretofore been dealt with by this office, and render it impossible for me to make any intelligent recommendation, and, for reasons heretofore suggested, it is believed that a careful investigation should be made into the conditions existing in the islands before any proper and sufficient legislation can be enacted.

I will say, however, that the experience of the past assure us that, if possible, it would be well to dispose of the Hawaiian public lands, agricultural in character, under some system of homestead or kindred laws for the benefit of actual settlers who are bona fide home seekers; and if local conditions permit such legislation, I am of the opinion that this object can be best accomplished and the monopolizing of the lands be more surely prevented by a simple enactment extending the provisions of the homestead laws of the United States to those lands, with such limitations and provisions as may be deemed absolutely necessary to meet existing conditions; but what these limitations and provisions should be this office is unable to suggest, and for this reason believes that a competent commission, either of one or more experts should make a field examination and by personal observation and consideration in Hawaii make such re-

port as will indicate what special limitations, classification, or provisions should be considered by Congress with a view to appropriate legislation for the disposition or reservation of all or any of the public lands in Hawaii.

A precedent may be cited in the Act of May 17, 1884 (23 Stat., 24), creating a government for the district of Alaska, which provided that—

The laws of the United States relating to mining claims and the rights incident thereto shall, from and after the passage of this act, be in full force and effect in said district, under the administration thereof herein provided for (through register and receiver and surveyor-general), subject to such regulations as may be made by the Secretary of the Interior, approved by the President.

The Act of May 14, 1898 (30 Stat., 409) provided:—

That the homestead laws of the United States and the rights incident thereto, including the right to enter surveyed or unsurveyed lands under the provisions of the law relating to the acquisition of the title through soldiers' additional homestead rights, are hereby extended to the district of Alaska, subject to such regulations as may be made by the Secretary of the Interior.

This latter Act, after extending the laws in the manner thus provided, then placed certain limitations as to the amount of lands to be entered in that district under the homestead laws, with certain reservations, and it is not seen why a like course could not be pursued in the case of Hawaii, with equally satisfactory results, should local conditions there warrant such legislation. This course seems to be far preferable to that proposed by this other bill which proposes "special laws for the Territory of Hawaii." With such a provision these lands could be disposed of under an established system, the basic principles of which are well understood by the people and clearly defined by this Department and the courts, while

a departure from it must inevitably lead to more or less confusion and could not accomplish more desirable results.

This office is therefore of the opinion that until exact conditions and needs are ascertained by a competent commission duly authorized for that purpose, or in some other reliable manner, no legislation whatever should be attempted, and I concur with the suggestions made by Mr. Boyd, Commissioner of Public Lands for the Territory of Hawaii, in his letter mentioned above.

SIR:—

Very Respectfully,

BINGER HERMANN,

Commissioner.

The Secretary of the Interior.

And who referred the whole matter to the Chairman of the Committee on Pacific Islands and Porto Rico, under date of April 24, 1902, as follows:—

Department of the Interior,

Washington, April, 24, 1902.

Sir:—

Under your reference I transmit herewith a letter from the Commissioner of the General Land Office, dated the 11th, ultimo, reporting upon the bill (S. 1344) providing special land laws for the Territory of Hawaii. The Commissioner, for reasons stated in his letter, advises that the bill be not enacted. Because of the importance of the subject I have deferred reporting upon the bill until I could have a conference with Governor Dole of Hawaii, who was en route here. I have now gone over the matter quite fully with Governor Dole, who joins me in ap-

proving the recommendation of the Commissioner of the General Office.

Very Respectfully,

E. A. Hitchcock,

Secretary.

Chairman of the Committee on Pacific Islands and Porto Rico.

United States Senate.

In response to my letter of June 10, 1902. The Commissioner of the General Land Office addressed me the following communication, enclosing copies of above communications.

Department of the Interior,

General Land Office,

Washington, June 24, 1902.

Hon. Edward S. Boyd,

Commissioner of Public Lands Honolulu, Hawaii.

My Dear Sir:—

Your favor is just at hand in which you request a copy of my report to the Honorable Secretary upon the pending bill in Congress in reference to the Public Lands of the Territory of Hawaii. I am glad to be able to comply with your request in this particular and what will perhaps please you equally well I have obtained from the document room of the Senate the printed proceedings before the Committee on Pacific Islands and Porto Rico including your testimony and that of Mr. Haywood and others. I also mail you several

copies of the bill, all of which I trust will reach you in time for your use.

I remember with much pleasure your mission here and wish to assure you that my interest in the success of all which you so energetically advocated has not ceased and I shall only be too glad at any time to aid you as far as I can.

Trusting we shall have the pleasure of meeting you again, I am, with kind personal regards,

Very Truly Yours,

BINGER HERMANN,
Commissioner.

I also appeared before the Senate Committee on Pacific Islands and Porto Rico and gave my testimony against the passage of any special legislation in regard to the Public Lands of this Territory substantially as above recited.

The record of this Committee shows my testimony—copies of which I have on file in this office.

Copies of correspondence and opinions in relation to Land exchanges for homestead purposes, also in relation to the Kohala Ditch Bill.

Washington, D. C., February 7, 1902.

To the Secretary of the Interior.

Sir:—

Governor Dole and myself as Commissioner of Public Lands for the Territory of Hawaii, have recently considered an application by the McBryde Sugar Company, a Hawaiian Corporation, to exchange certain land owned

in fee by that Company on the Island of Kauai for certain public land on that Island which is not supplied with water for irrigation, and can neither be used in its present condition for small homesteads nor for cultivation unless by expensive methods of irrigation. The land referred to is about six thousand (6,000) acres and is held by the McBryde Sugar Company under an old crown lease for a nominal rental of $300 a year, having six or seven years for its term unexpired. The land proposed in exchange has an area of about two thousand (2,000) acres, is amply provided with water, and can be used advantageously for small homesteads and for agricultural purposes. It is the wish of Governor Dole to obtain a ruling of the Department on the question whether such exchange of land, if in other respects advisable, would be precluded by reason of the proviso in Section 55 of the Organic Act of the Territory, which requires that no association hold and acquire over one thousand (1,000) acres. I am confident that if the Government has not written a request for such ruling, the omission or delay is inadvertent and that he will be gratified if an opinion shall be given by the Department upon this question.

I beg to call your attention to the fact that the proviso is in a section defining the legislative power and is a limitation on the power granted to the Territorial legislature to authorize the forming of corporations, and also, that the proviso excepts vested rights in real estate; and further, that in this instance the title in the land taken would be in the United States while the title in the land acquired by the corporation would be enlarged from its present estate for years, to a fee.

So long a time is required for communications to pass between Washington and Honolulu, and the question arising so definitely in the matter I have referred to above, I trust that while I am present in the City pur-

suant to the instructions of Governor Dole on business connected with the Hawaiian Public Lands, this subject may receive the considerate attention of the Department.

Very Respectfully Yours,

EDWARD S. BOYD,

Commissioner of Public Lands for the Territory of Hawaii.

Department of the Interior,

Washington, February 19, 1902.

Mr. Edward S. Boyd,

Commissioner of Public Lands for the Territory of Hawaii, Washington, D. C.

Sir:—

Your letter of the 7th instant has been received in which, at the suggestion of the Governor of Hawaii, you refer to an application of the McBryde Sugar Company, a Hawaiian Corporation which desires to exchange 2,000 acres of land owned by it in fee for 6,000 acres of Public Land, and inquire whether such exchange is inhibited by the proviso of section 55 of the Act to provide a government for the Territory of Hawaii (31 Stats. 141-150).

In response thereto I transmit herewith a copy of an opinion submitted by the Assistant Attorney-General of this Department in whose conclusion, that the exchange of lands sought to be made by the McBryde Sugar Company, is prohibited by the proviso in section 55 of the aforesaid Act, I concur.

Very Respectfully,

E. A. HITCHCOCK,

Secretary.

Department of the Interior,

Office of the Assistant Attorney-General,

Washington, February 18, 1902.

The Secretary of the Interior.

Sir:—

The Commissioner of Public Lands for the Territory of Hawaii, in a written communication, dated February 7, 1902, states that the McBryde Sugar Company, a Hawaiian Corporation has made application to exchange about 2,000 acres of land, owned by it in fee, situate on the Island of Kauai, for about 6,000 acres of Public Land situate on the same island, and that Governor Dole desires to obtain a ruling:—

On the question, whether such exchange of land, if in other respects advisable would be precluded by reason of the proviso in section 55 of the Organic Act of the Territory, which requires that no association hold and acquire over one thousand (1,000) acres.

The question has been referred to me, with a request for an opinion.

It appears, from the papers submitted, that the McBryde Sugar Company was incorporated May 25, 1899, under the general laws of Hawaii, relative to corporations and joint stock companies. At that time the power of Congress was supreme over the Territory of Hawaii and over the laws established therein. It could amend, modify, or repeal any law of said Territory, or directly legislate for it. In the exercise of its power to legislate for the Territory, Congress could revoke and repeal the laws under which said corporation was chartered, or limit the amount of real estate which any corporation, oper-

ating within said Territory, could thereafter acquire (Mormon Church *v.* United States, 136 U. S., I., 45). That portion of the proviso to section 55 of the Act to provide a government for the Territory of Hawaii (31 Stat., 141, 150), applicable to the present inquiry, is as follows:—

Provided, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres.

It is plainly evident, from the wording of the above, that Congress intended to limit the amount of real estate which any corporation operating in the said Territory could acquire and hold, to 1,000 acres. The power of Congress to enact such provision is unquestionable.

I am of the opinion, and so advise you, that the exchange of lands requested by the McBryde Sugar Company is prohibited by the proviso in section 55 of the aforesaid Act.

Very Respectfully,

WILLIS VAN DEVANTER,
Assistant Attorney-General.

Approved, February 18, 1902.

E. A. HITCHCOCK,
Secretary.

Department of the Interior.

Washington, April 5, 1902.

The Chairman of the Committee on Pacific Islands and Porto Rico, United States Senate.

Sir:—

Under your reference of the 4th instant, I have con-

sidered the bill (H. R. 11997) granting to the Hawaiian Ditch Company, Limited, the right of way over certain Public Lands in the Island of Hawaii for ditches, canals, etc., to be used for irrigation and other purposes.

For the information of your committee I enclose herewith a copy of a letter, dated the 11th ultimo, from the Governor of Hawaii, protesting against the passage of this or a similar bill. In the main, the views of Governor Dole have my full approval. Heretofore this Department has been inclined to the view that there is no existing statutory authority for the granting of rights of way through the Public Lands in Hawaii for irrigation and kindred purposes, but the matter has recently been carefully considered by the Assistant Attorney-General for this Department and in an opinion rendered by that officer yesterday and approved by me, a copy of which is herewith enclosed, it is held that full authority is given by existing laws to Territorial Officers to grant easements of this character over the Public Lands. I believe, therefore, that there is no necessity for the legislation embodied in the pending bill, and that the Territorial Officers will be able, under existing statutes, to accomplish better results for the Public and the people of the Islands than can be attained through any special legislation of this character. I earnestly recommend, therefore, that the pending bill do not receive the favorable consideration of Congress.

Very Respectfully,

(Sgd.) E. A. Hitchcock,

Secretary.

Executive Chamber, Territory of Hawaii,

Honolulu, March 11th, 1902.

The Honorable The Secretary of the Interior, Washington, D. C.

Sir:—

From the newspapers and other sources of information, I should judge that Mr. Samuel Parker's Kohala Ditch Bill, H. R. 9507, is being pushed in the House of Representatives with considerable activity. I am informed that Mr. Knox, Chairman of Committee on Territories, is unfavorable to special legislation of the character proposed by the bill, and has expressed himself as favorable to the passage of a bill granting the Territory the necessary authority for dealing with such matters.

I was glad to learn of Mr. Knox's views in this matter, as Mr. Parker's bill is not only a grant of valuable privileges without reserving anything in the way of rents or other consideration to the Territorial Government, but would be mischievous in the extreme to the public interest, in that it contains no provisions for protecting sources of the water supply or forests, and no requirements as to water rates for the sale of water to agriculturists, and no protection for the small farmer in distinction from the large sugar planter in the way of opportunities of having water. Its powers of eminent domain over private lands are sweeping without checks or limitations of any kind.

The menace to both water sources and forests of such sweeping privilege, will be understood when it is known that our best and most lasting sources of water, exist generally in elevated places where from the grade of the land, the excessive humidity and the impenetrable and jungle like character of the growth and especially the un-

dergrowth, there is not only an immense precipitation of moisture, but from the dense growth and swampy character of the ground thereby induced, a large quantity of water is held and only slowly given out, so that streams from such sources suffer less in dry weather than others. My information is that this is the character of the summit of the Kohala Mountains. It will be easily seen that ditches or tunnels cut into such a locality would tend to drain away the water rapidly so that the reservoir for furnishing a supply during droughts would be soon destroyed and the soil becoming dry from such drainage would cease to support the dense growth so important to such a water source, which would gradually disappear, to the irreparable damage of the public interests.

There are other objections to the question. It gives no right to take government water but to construct and maintain ditches. This vagueness would result in litigation, for the Territory would oppose the taking of government water unless Congress should clearly grant the same. The bill apparently confers a perpetual privilege, which of course is inconsistent with law as well as public policy.

Moreover, the description of the country through which the ditches are to run, is vague, confusing and absolutely inadequate for such a purpose.

I trust the bill may be defeated, as it is utterly without merit, and would only result, if passed, in prejudice to the public, and would be in the way of intelligent handling of the situation in the future.

Very Respectfully,

(Signed) SANFORD B. DOLE.

Department of the Interior,

Office of the Assistant Attorney-General,

Washington, April 4th, 1902.

The Secretary of the Interior.

Sir:—

You have referred to me, for consideration and appropriate action, the application of James Walter Jones of Honolulu, Hawaii, made to the officers of the Territory of Hawaii, if granted by them, would create an easement upon a portion of the public lands in said Territory, coupled with a right to take from adjacent lands during the existence of the easement, earth, rock and timber—the easement and right to be used for the purpose of constructing, and operating all the works necessary to supply water for irrigating lands, developing power, and for domestic purpose.

The applicant proposes to pay to the Territory, as compensation for the granting of the easement sought, a yearly sum ranging from $1,000 to $2,500, and further proposes to furnish and sell water for domestic and agricultural purposes to those who are acquiring or leasing public lands and to owners of private lands, the rates therefor to be uniform and to record to certain specified standards.

It seems that the officers of the Territory are willing, and deem it advisable for the best interests of the Territory, to grant the application, but have withheld final action pending consideration.

Two questions are presented for consideration: (1) Have the Territorial officers power to grant an easement upon and over Public Lands of the Territory for the purposes named in the application, and if so, may they au-

thorize the grantee thereof to take from adjacent land during the life of the easement, earth, rock and timber, the same to be used in the construction, maintenance and repair of the improvements to be erected, (2) Is it necessary for this Department to approve the application?

By the joint resolution of July 7, 1898 (30 Stat. 750), accepting the cession of the Hawaiian Islands, it is provided that:—

The existing laws of the United States relative to Public Lands shall not apply to such lands in the Hawaiian Islands, but the Congress of the United States shall enact special laws for their management and disposition.

Section 73 of the Act of April 30, 1900 (31 Stat. 141, 154), providing a Government for the Territory of Hawaii, continued in force with certain modifications to conform to changed conditions, the laws of Hawaii relating to Public Lands which were in existence at the date of the passage of the aforesaid joint resolution. Among the provisions thus modified and continued in force are the following, being a part of sections 169 and 193 and subdivision of section 186 of the Civil Laws of Hawaii, of 1897:—

Section 169. The Commissioner of Public Lands, by and with the authority of the Governor and Attorney-General, shall have power to lease, sell or otherwise dispose of the Public Lands, and other property, in such manner as he may deem best for the protection of agriculture, and the general welfare of the Territory, subject, however, to such restrictions as may, from time to time, be expressly provided by law.

Sect. 186. Sub. 6. A "land license" means a privilege granted the Territory for the occupation of land for certain special purposes, such as the cutting and removal of timber, the removal of soil, sand, gravel or stone.

Sec. 193. The Commissioner of Public Lands have

power from time to time to establish forms of all instruments necessary for carrying out this Act,....and to make, alter and revoke rules and regulations....for the granting of land licenses, etc.

The above are the only provisions of the laws of said Territory under which it may be claimed that the power to grant the authority requested exists. So far as I am informed these statutory provisions have not received judicial interpretation, but it has been shown that, prior to the establishment of the Provisional Government of Hawaii, the officers of the Kingdom, charged with the administration of the Public Land laws, and under provisions similar to the above, granted applications of the character under consideration. Further, that the executive officers of the Republic, under the aforesaid provisions, have heretofore claimed and exercised the same power, and that since annexation the Territorial officers have granted similar applications. The construction thus given to said provisions, and to provisions of similar import, is entitled to respectful consideration, and should not be disregarded without good reasons. United States *v.* Moore (95 U. S., 760, 763).

In determining the extent of the power intended to be conferred upon the officers named in said section 169, two questions are presented for consideration, viz. (1) Will the establishment of works to supply water for irrigation, power, and domestic purposes in the Hawaiian Islands protect agriculture therein, or conduce to the general welfare of the Territory? (2) Is the power to grant an easement included within the power given to lease, sell, or otherwise dispose of the public lands?

It is well known that a large part of the Islands is arid or semi-arid, and incapable of cultivation without irrigation. The histories of other countries, and the develop-

ment of our own, demonstrate that the establishment, maintenance, and operation of irrigation works in arid and semi-arid regions promote and protect agriculture and enhance the general welfare of the state. This fact has long been recognized by Congress and by the people of the Rocky Mountain region and Pacific Slope, as is evidenced by Constitutional provisions adopted, and Congressional, State, and Territorial legislation enacted, to promote, encourage, and protect irrigation enterprises; it has been recognized by the courts, as will appear by reference to judicial approval, construction, and application of such laws; it has been recognized by the law making power of Hawaii, as will be seen in its laws relative to the exercise of the right of eminent domain, where power is conferred to take private property for the purpose of "constructing dams, reservoirs, canals, ditches, flumes," etc.

It is now universally conceded that an enterprise which has for its object and purpose, and which is calculated to reclaim from their desert character and bring under cultivation, lands situated in an arid or semi-arid region, is an enterprise that promotes agriculture and adds to the wealth of the community; and it has been too long, and is now too well settled, by high judicial authority, to admit of discussion, that water works used for developing power or for supplying water for domestic purposes are for the benefit of the public. It follows that, under said section 169, the officers therein named are given the power to lease, sell, or otherwise dispose of Public Lands for the construction, maintenance, and operation of such works as are mentioned in the application.

The power to encumber the Public Lands by the granting of an easement, while not in specific terms given by the section, is clearly included in the words employed. As is plainly evident, the purpose of the section is to protect

and promote important and beneficial public objects, and should be construed liberally in favor of the public interests, if this can be done without violence to its terms, (Sutherland, Stat. Sec. 443). Applying this well settled rule of statutory, construction to the words employed, there can be no doubt that the legislature intended to confer the minor power of granting an easement when it invested the officers of the Territory with authority *to lease or otherwise dispose* thereof. This view of the meaning of the words employed is strengthened by judicial decisions (as will be seen by reference thereto) wherein are construed terms of similar import in the Federal Constitution and in Act of Congress.

Art. 4, Sec. 3, of the Federal Constitution provides:—

That Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States.

In passing upon this provision the Supreme Court, in U. S. *v.* Gratiot et al (14 Det., 526, 537), held that it authorized Congress to enact laws for the leasing of the public domain.

By Act of March 3, 1819 (3 Stat., 520), the Secretary of War was authorized under the direction of the President, to cause to be sold certain military sites. By a subsequent Act, passed April 28, 1828, (4 Stat., 264), the President was authorized to sell certain lands which had been conveyed to the Government for forts, arsenals, dockyards, lighthouses, or any like purpose, etc.

In November, 1838, the Secretary of War entered into a contract with the President of the Baltimore and Ohio Railroad Co., by the terms of which authority, for an indefinite period, was granted to the company, among other things, to construct its railroad over and across lands of the Government included in the site of Harper's Ferry Military Arsenal. Under said agreement the company en-

tered upon and constructed its line of railroad over and across said lands, and operated said railroad continuously thereafter. Subsequently an action was instituted by the Government against the company to cancel the aforesaid agreement, principally upon the ground of want of power in the Secretary of War to enter into the same. The court dismissed the bill, holding that the Secretary of War "being invested with authority to dispose of it (the site) by grant in fee, all minor powers over the property are necessarily implied;" and that the railroad company, as well as the public through it, had "acquired an easement in the property, so long as it continues to use it for the purposes granted." U. S. *v.* Baltimore & Ohio Railroad Co., (1 Hughes, 138, S. C; 24 Fed. Cas., 973, 975).

Taking into consideration the language employed in the said section 169 and the rule of construction applicable to the same, I am of opinion that the power conferred thereby to lease, sell, *or otherwise dispose of* the Public Lands includes authority to grant an easement upon, over, and across them.

An easement which is granted for the purpose of erecting and maintaining a public or *quasi-public* improvement necessarily carries with it a right to remove so much of the soil, rock, and timber from the land subject thereto as may be necessary in the construction and maintenance of such improvement, but ordinarily such easement does not confer the right to indiscriminately use soil, rock and trees from adjacent lands for the purposes of construction, maintenance, and repair of such improvement.

But it is clear to me that by Sections 186 and 193 of said civil laws, the territorial officers are expressly authorized to grant a right to use earth, rock and timber upon adjacent public lands for the purpose of construct-

ing, maintaining and repairing the improvements agreed to be erected by the applicant.

While I recognize that a "license" in its restricted legal sense, means a liberty or privilege upon the lands of another, to be enjoyed at the will of the party who gives it, and that the privilege here sought is not intended to be thus revocable, yet a license, in its enlarged sense, may include a privilege coupled with an interest, in which case it is not revocable at the will of the licensor.

This enlarged sense was evidently intended by the legislature of Hawaii to be included in the term "license" as used in the Statutes. After defining, in section 186, what a "land license" is, the legislature, by section 193, conferred upon the Commissioner of Public Lands power to make rules and regulations for the granting of the same; and in section 198, subdivision 4,, recognize that contracts may be made respecting "license, or other disposition of public lands." The employment of the words "granting" and "contracts" relative to "land licenses," shows that the legislature contemplated that such licenses might be issued coupled with an interest in the grantee.

The power to grant the authority asked is conferred upon the officers of the territory by the local laws which Congress, by express direction, has continued in force, and the exercise of the power in no way depends upon the action of this department; hence, it is not necessary that the application should be approved by you.

In the application it is conditioned, among other things, that the privileges asked for, if granted, shall, within five years be surrendered to the Territory, and when surrendered be immediately issued to a corporation to be formed for the purpose of owning, maintaining and operating said works. I do not feel called upon to say whether or how such an easement or privilege as it is here sought

may be transferred or conveyed to another, but I do feel constrained to say that the latter part of this provision is objectionable. The present officers cannot bind their successors or Congress in that way.

I am of the opinion, and so advise you, that the privileges requested by the applicant are within the power of the officers of the Territory to grant, and that it is not necessary for you to approve the application.

Very respectfully,

WILLIS VAN DEVANTER,
Assistant Attorney General.

APPROVED:

April 4, 1902.

(Signed) E. A. HITCHCOCK, Secretary.

The opinion mentioned in the communication from the Secretary of the Interior as rendered by the Assistant Attorney General is substantially as above recited.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, April 5, 1902.

THE GOVERNOR OF HAWAII,
Honolulu, Hawaii.

Sir:—Referring to former correspondence relating to the authority, under existing law, to grant rights of way through the public lands in Hawaii for ditches, canals, and reservoirs, to be used in the storage and conveyance of water for irrigation and kindred purposes, I enclose herewith, for your information and guidance, an opinion, dated the 4th instant, rendered by the Assistant Attorney General for this Department, approved by me, wherein it is held that, under existing legislation, such rights of way may be granted by the Territorial officers.

In this connection it should be said, that the duty and the entire responsibility of acting upon and disposing of applications for such rights of way rest upon the Territorial officers, and my duty in the premises is only of that advisory character which inheres in a superior officer. The form of agreement or arrangement with Mr. James Walter Jones, which is submitted with one of your letters, is such that I desire to make some suggestions, born of my observation in the Department here, which may be of advantage to you and the Territory in your further disposition of matters of this kind.

It has been found necessary, if not indispensable, to the best results that there should be a prescribed width for each right of way such as ten or twenty-five feet on each side of the center line of the ditch, canal or water way, and that the taking of earth, stone and timber, for use in construction and repair, should be confined to lands embraced in the right of way, save in very exceptional instances, and then to be confined to other lands either specifically described at the time of granting the right of way or to be determined upon by public authority when the necessity therefor arises. It has been the exception, and may be of questionable propriety, to provide for the taking of timber for any purpose other than original construction, except from the lands embraced within the prescribed right of way. The sites of reservoirs should have some prescribed maximum area, and should be confined to the ground intended to be overflowed and to be a reasonable amount of adjacent ground sufficient for the proper maintenance of the reservoirs and the collection and retention of waters therein. There should be an absolutely accurate and definite location of the grounds to be included in reservoirs and dam sites and in the right of way, delineated upon some character of map to be filed within some limited time, and to be subject to the ap-

proval of the proper Territorial officer or officers. Such a map should bear upon its face, or in accompanying field notes, such a statement of the location and courses and length of the boundaries of the lands to be taken as would readily enable a surveyor to accurately mark and locate in the field the ground to be taken or affected. These matters have been found by experience to be necessary in order to distinguish and segregate the land encumbered from that which is not encumbered, and therefore to enable the proper authorities, as well as private individuals, in subsequent dealings with respect to the public lands, to avoid conflicting grants and confusion in title. It is also common to provide that the grantees of such rights of way shall be charged with the duty of constructing and maintaining proper bridges and crossings at all intersections of public highways. Another feature common to transactions of this kind is the requirement that the dams, reservoirs, and canals, shall be constructed according to plans to be approved by some designated officer, and so maintained, under that officer's supervision, as to avoid injury to other public and private lands by reason of overflow or washing due to breaks caused by imperfect construction or careless maintenance.

Whether the rental or yearly income to the Territory indicated in the proposed agreement is an adequate one is a matter which deserves careful attention, especially considering the long period of the easement; and the Territorial officers, who are or should be, familiar with the locality and the private and public interests to be affected, are in a better position than any one here to properly determine this question.

Very respectfully,

(Signed) E. A. Hitchcock,
Secretary.

CHAIRMAN COMMITTEE ON PACIFIC ISLANDS AND PORTO RICO,
UNITED STATES SENATE.

Sir:—I submit the following statement regarding H. R. 11997, now pending before your committee.

In the early part of 1901 an application was made by Samuel Parker of Honolulu, to the officers of the Territory of Hawaii for a license to collect and divert the water from the public lands to the north and east of the Kohala Mountains, on the Island of Hawaii, and for a right of way for a ditch across said lands.

The application was considered with much favor, but there was some doubt in the minds of the Territorial officers regarding their authority to grant the license asked, and the opinion of the Secretary of the Interior was sought. His reply was to the effect that if there was no clear authority under the law for such action it should not be made, and that if there was not such authority and the governor considered that such authority should be vested in the governor he should so state in his next annual report.

About June 1, 1901, and a month prior to the receipt of the above reply of the Secretary, another application for a similar license was filed with the Territorial officials asking for the privilege of taking water from a portion of the same land named in the application of Samuel Parker. The latter application was in the name of John Walter Jones of Honolulu. No further action was had on either application until about July 8, 1901, when a meeting was held at which were present the acting governor, the heads of the different government departments, and representatives of the two applicants.

This meeting was called to consider these applications. J. W. Jones presented plans for the proposed ditch, which he claimed were the result of the work of a party of en-

gineers which had been working in the Kohala Mountains for some weeks on this matter.

The representatives of Samuel Parker also presented certain maps and stated that they had surveyed part of the watershed, and were asked to submit their plans and full maps within a month. The letter from the Secretary of the Interior was read and discussed and further action was delayed. The law was thoroughly discussed for some time following, and it was finally determined that the Territorial officers did not have the requisite authority.

About the middle of August it was determined that a report upon the plans submitted by J. W. Jones (no others having been further presented by any other person) should be made by the government engineer, who, accordingly, was sent to the Island of Hawaii for that purpose. His report, after an examination, was that the plans of Jones were practicable, and recommended the issuance of a license, under certain restrictions. Another meeting was then called, at which were present Governor Dole, the heads of government departments, Samuel Parker, Mr. S. M. Ballou, counsel for Mr. Parker, Mr. J. W. Jones, Messrs. H. B. and A. C. Gehr. Before there was any discussion Mr. Ballou announced on behalf of Mr. Parker that there had been a coalition of the interests of Samuel Parker and J. W. Jones, and that Parker desired to withdraw his application for a license in favor of the Jones application, and that Parker would make no further application for this privilege. The Jones application contained stipulations which were considered more favorable to the government.

From this time until about September 15 there were many conferences regarding the terms of the license, at which all the persons interested were represented and working in harmony. In the end a form of license was

drafted, containing a large number of restrictions and agreements to protect the government and other holders of lands, all of which were pronounced acceptable by both the Parker and Jones interests.

At this time certain business interests of the Islands requested a delay that they might examine into the matter, to see if they might be affected by the issuance of the license. The question was fully discussed with and by them and in the press, and several further amendments to the license were suggested in the public interest. I refer to the copy of the proposed Kohala water license for its terms in particular. These amendments were in turn accepted by both the Parker and Jones interests, and, as there appeared to be no sufficient objection to the issuance of the license, it was practically agreed by the Government that the license should be granted.

Before this could be done, the governor received from the acting Secretary of the Interior a letter denying the authority in the Territory to make such a license, and no further proceedings in this matter were had. Recently this decision has been reversed, and the Secretary of the Interior, upon the opinion of the Assistant Attorney-General, assigned to the Department, has held that the Territory has full authority to grant a license of this character.

About October 1, 1901, Samuel Parker refiled in his own name his application with the government, and offered practically the same terms as were proposed for the joint Parker-Jones license.

Subsequently Mr. Parker and his associates, who, as I am informed, do not include J. W. Jones and his associates, formed the Hawaii Ditch Company, Limited, and at the instance of this company certain bills were introduced in Congress, asking for a right of way over the same lands included in the license discussed at Honolulu.

The House bill was referred to the Committee on the Territories and the Senate bill to the Committee on Public Lands. The latter bill, as I am informed, is still pending before that committee.

These bills asked for a grant in perpetuity, without compensation or restriction of any character, and in addition the right of eminent domain over private lands. The House bill was subsequently amended and passed by the House, and is now before the Senate Committee on Pacific Islands and Porto Rico for action.

At a recent conference held in Washington, at which were present Governor Dole, myself, and representatives of both the Hawaii Ditch Company and those interested in the Jones application, it was ascertained that the further coalition between the Parker and Jones interests was refused by one of the parties, and then Governor Dole announced that as there were two parties asking for the same privilege he could not side with either, and that the matter must be decided at Honolulu, and that under the circumstances the right to the license would probably have to be put up for sale at public auction.

As Commissioner of Public Lands for the Territory of Hawaii, I wish to enter objection to the passage of this bill now before you, H. R. 11997, or any other bill of similar import, and I base my objection chiefly upon these grounds:

1. The terms of the grant is for an unlimited period.

2. The vagueness of the description of the Territory through which the ditch is to run, and of the rights which would be conferred, leave too much ground for uncertainty and litigation.

3. The fact that the charter of the Hawaii Ditch Company precludes it from holding lands may not prevent it from selling all or a large part of the water to the majority stockholders, who might not sufficiently protect

the interests of others, and more especially the small holders of lands. In the license proposed by the government of Hawaii this matter was so fully covered that there can be little room for possible evasion of the intent of the license.

4. The amendments which are now acceptable to the Hawaii Ditch Company seem to be so because of opposition offered by the officers of the Hawaiian Government and other parties who claim an interest in the matter. The Territory of Hawaii does not wish to depend upon the efforts of individual citizens nor incur the expense of keeping an official in Washington to object to possible legislation harmful to the Territory, and the distance from Washington to Honolulu in both time and miles is large. If a precedent should be established by the enactment of this bill into a statute, other attempts of a similar character may be made, and, in fact, such bills are already pending in Congress.

5. The gentlemen of your committee and other committees do not now possess the intimate knowledge of our lands and the conditions surrounding them or the present means for obtaining such knowledge so requisite to enable you to thoroughly and sufficiently pass upon the merits of an application of this kind, and if you had such knowledge your time and attention are occupied with the large affairs of a great nation, and you cannot spare the time necessary for such an examiantion.

These are small matters when compared with those of national and international import, which constantly demand your close attention, but they are of great importance to the Territory of Hawaii, with her limited resources, and we can and are willing to devote all the time required for a proper solution of these problems.

In this case you are asked to decide, at a few meetings of an hour or so each, questions which the Territorial

officials have passed upon and decided many times, and to which in the case of the Kohala Water license, they have devoted, anew, many days of time; extending over a period of many months, including a personal examination of the lands in question.

I think that this is a matter which should be left to the officers of the Territory.

Should you think otherwise, I respectfully request that you will not act in this or any similar matter until you have a personal and exact report from some one upon whose experience and judgment you place reliance, and whom you may send to Hawaii to make an examination of our conditions.

Respectfully Submitted,

EDWARD S. BOYD,

Commissioner of Public Lands for the Territory of Hawaii.

Washington, D. C., April 22, 1902.

January 22nd.

HON. SANFORD B. DOLE,

Governor of the Territory of Hawaii.

SIR:—I beg to submit you herewith Statements of Estimated expenditures and receipts of this Commission for the two years, which will end June 30th, 1905, as follows:

Estimate for Salaries, Commission of Public Lands, for the years ending June 30th, 1905.

Salary Commissioner	$ 7,200.00
" Secretary and Sub-Agent 5th Land District.	4,200.00

†Salary	Clerk and Book-keeper	3,000.00
"	Patent Clerk	2,400.00
‡ "	Typewriter and Copyist	1,200.00
"	Messenger Land Office and Registrar of Conveyances	1,800.00
"	Sub-Agent 1st Land District	2,400.00
* "	" 2nd Land District	1,800.00
"	" 3rd Land District	960.00
"	" 4th Land District	1,200.00
"	" 6th Land District	720.00
"	Ranger 1st Land District	1,200.00
§ "	Clerk 1st Land District	1,200.00
"	Ranger 2nd Land District	720.00
¶ "	Ranger 3rd Land District (Kau $480, N. & S. Kona $720.)	1,200.00
"	Ranger 4th Land District	720.00
"	Ranger 5th Land District	720.00
§ "	Ranger 6th Land District	480.00
		$33,120.00

†This is a new item. It is has been the habit in this office of having the Secretary do all book work including the collection of all monies, correspondence, &c., in fact, he was supposed to do everything. With the present increase of business in the office, his work has grown out of all proportion, for one man to contend with. Very frequently I have had to help him out with his work, when I can spare the time, even then work will accumulate before we are aware of it.

Our Book-keeping system has been criticised by a Committee of the Senate appointed to investigate the workings of this Department, and have suggested that a better System be inauguarated, as the present system is "cumbersome" and "obsolete," which suggestion I thor-

oughly approve. It has always been my intention to improve the book-keeping system before an investigation was ever thought of, but with the inefficient staff at my command, and knowing that it was changing a system that was in vogue since the creation of this office, made me hesitate to attempt it offhand, without giving the matter careful study, and when the system is decided upon it will have to be made with the approval of the Auditor.

‡This item was in the Salary Appropriation Bill two years ago, but the last legislature, probably through an economical frame of mind struck it out, and to say the least, the economy, if it may be called so, has been disastrous to the efficiency of our office work.

I therefore urge upon you the necessity of inserting the items above referred to in the Appropriation Bill for Salaries, to be submitted by you to the coming regular session of the Legislature.

*Present appropriation is $1,200.00. This raise is made because I think that the salary of $50.00 per month is inadequate for the work required of, and the responsibility attached to the office of Sub-Agent of this District.

§These two items were in the Salary Appropriation Bill two years ago. Clerk First Land District, $1,200.00. This item was merged into Ranger and Clerk, First Land District by the last legislature at $1,200.00.

Since July, 1901, Mr. E. D. Baldwin has been serving as Sub-Agent of the District without pay, which made it possible for me to appoint a man as Sub-Agent with pay to act as such and to do such clerical work as he may be required to do, otherwise the office would have been more or less crippled.

Mr. Baldwin knew that this state of things would occur, he came to the rescue by offering his services gratuitious for the public's good, and the interest he has taken

in the office that he has so long held with credit, for the time being, until this Department has a sufficient staff at its disposal for that office.

This state of affairs cannot always exist in the First Land District office, consequently we are forced to take an alternative view of the question, and should anything happen, we must be prepared to cope with the situation.

Therefore it is very necessary that this important office should have a clerk to attend to the books and such other work that may be required of him, thereby relieving the sub-agent from doing office work, so that he can attend to outside work as required of him by law. With the increase of land transaction, especially this district (which heads the list exceeding any three other districts) it will soon be impossible for him to attend to any of the general office work, except its supervision.

I therefore urge upon you the necessity of also inserting this item in the next proposed Salary Appropriation Bill, also Ranger Sixth Land District of $480.

This Salary: Ranger Third Land District is $720, under the present Appropriation Bill for Salaries. This Land District constitutes two of the largest district in the Island of Hawaii, and it has been and is an impossibility for one man to attend to the work which would necessitate him to travel long distances, as lands in this district, that have been opened for settlement are so scattered, which you are fully aware of. The raise from $720.00 to $1,200.00 divided as above is a very necessary item.

Estimate expenditures is as follows:

ITEM.		To be Asked For.	Total.	Former Appropriation.	Increase of
Incidentals for unpaid Bills, etc., during 2 years ending June 30th, 1903....	Expenses Commissioner to Washington, D. C., and return, during months of January, February, March, April and May, 1902	$ 2,000 00			
	Office and traveling expenses, printing and advertising, etc , for months of January, February, March, April, May and June, 1903, $300.00 per month	1,800 00			
			$ 3,800 00		
Incidentals for 2 years ending June 30th, 1905	Office and traveling expenses ..	$ 3,200 00	8,000 00		
	Printing and advertising.....	4,000 00			
	Purchase of Book (Office and Land Patent Grants)	500 00			
	Appraiser's fee.....	300 00			
			$ 8,000 00	$ 5,250 00	$ 2,750 00
Preliminary Roads and Trails.....		$ 7,000 00	7,000 00	7,000 00	
Expenses Filing Boundary Certificates.....		500 00	500 00	300 00	200 00
Fencing and Maintenance of Forest Reservations		15,000 00	15,000 00		15,000 00
			$ 30,500 00		$ 17,950 00

From the above statement you will notice an item of $2,000.00 for the expense of the Commissioner incident with his visit to Washington as stated. The appendix of my report for the year ending June 30th, 1902, gives a full account of what was done in Washington in relation to our public land question.

This item was to have been paid out of incidentals, but on account of other very necessary expenditures which has practically exhausted our incidentals, I have deemed it advisable to ask the legislature for a specific amount to pay this with.

We are also asking for $1,800.00 to pay our office expenses, &c., for six months, ending June 30th, 1903. Our present appropriation for incidentals is practically exhausted. We have tried our best to economize and keep within our appropriation, but the business of the office has grown out of all proportion to our means, and we simply had to make the best of it. To have further curtailed expenses, would have materially decreased land transactions from that as shown in my last report, further we would have been criticised for our tardiness in administering to the wants of the public. I believe in a progressive policy, and to do that we must have adequate means at our disposal, activity in the disposition of Public Lands means heavy expenditures in printing, advertising and travelling also in the general and branch offices, the employment of extra help, &c., had all to come out of a $5,250.00 appropriation, which I must say is inadquate. It is therefore necessary that the legislature be asked to appropriate this item.

And further you will also notice my remarks in the former part of this report in regard to the "inadequate" staff at my disposal. Take for instance in the First Land District we had to engage a clerk for two months to do some very necessary work, which amounted to nearly

$150.00. In this office I had to engage a clerk at $20.00 per month for the last year to do necessary typewriting and other urgent work that had to be done.

Referring to former appropriation bills for salaries, and comparing the same with the present bill you will notice a great difference in the amounts appropriated, consequently we had to pay extra help out of our incidentals. And I again reiterate my remarks on pages two and three of this report with the further statement that the limited and inadequate appropriations at our disposal has been disastrous to the efficiency of this Commission.

Further, the last legislature failed to make provision for the protection of our forests from fires or for the purpose of extinguishing same in case fires should occur. You are well aware of the fact that some very disastrous fires occurred in our Ewa and Waianae Mountains, and the expense of putting them out had to be paid out of our incidentals, because we had no other available funds to pay same from. My trip to Waimanu Valley in Kamakua was principally on account of forest fires, since which time no further fires have occurred in that locality, the expenses of which had to be paid out of the same item.

Taking all these facts into consideration I think we have done well, and the money has been well spent and for the public good.

You will also notice in the requisition for the next two years that it exceeds the present appropriation by $2,750.00 making a total of $8,000.00. From past experience I think that the amount asked for is not any too much.

An increase is also asked for expenses filing Boundary Certificates, and it is very necessary that this amount be asked for.

Fencing and Maintenance of Forest Reservation, $15,000.00. In this regard I wish to state that I am of the opinion, notwithstanding offhand discussion of the matter, that the control of Public Lands and Forest Reservation is under this Department. My conclusions are as folows:—

Formerly under the monarchy and republic, the Minister of the Interior was given the supervision, &c., of all Government Lands, Parks, Forest Reservations, &c. Bureaus were created to administer each special object, but was nevertheless subsidiary to him (Minister of the Interior) and he was always ex-officio, in some instances a member thereof. Section 73, of the Organic Act, states That the laws of Hawaii relating to Public Lands * * * * * * * * * except as changed by the act, shall continue in force until Congress shall otherwise provide * * * * * * * * In said laws "Land Patent" shall be substituted, for "Royal Patent," "Commissioner of Public Lands" for "Minister of the Interior," &c., thereby creating a distinct Department to control, manage and dispose of the public domain of this Territory.

Forest Reservation cannot be construed to mean public grounds, nor is it anything else but a part of the public domain and to be enjoyed as such by the wishes of the public. Referring to section 75 of the Organic Act, Superintendent of Public Works, among other matters, it distinctly states "and other grounds and lands *now* under the control and management of the Minister of the Interior," by this it was evidently the intention of Congress to give the control, &c., of such lands that were under the supervision of the Minister of the Interior at that time to the Superintendent of Public Works, the word "now" cannot be construed to mean anything else, therefore subsequent to that time the control of the public domain, not otherwise provided for should be con-

trolled, managed and disposed of as Congress directs. This is my honest opinion of the case, and in conclusion I don't pretend to say that I will not be convinced to the contrary, should there be better arguments brought to bear on my conclusions.

This item is a very necessary one and should be submitted by you to the next legislature.

STATEMENT OF EXPENDITURES FOR 18 MONTHS ENDING DECEMBER 31, 1902.

ITEM.	Appropriation.	Drawn.	Balance.
Salary of Commissioner	$ 7,200 00	$ 5,400 00	$ 1,800 00
Salary of Secretary and Sub-Agent Fifth Land District	4,200 00	3,150 00	1,050 00
Salary Clerk and Patent Clerk	2,400 00	1,800 00	600 00
Salary Messenger Land and Registry Office	1,800 00	1,350 00	450 00
Pay of Sub-Agent 1st Land District	2,400 00	1,600 00	800 00
Pay of Clerk and Ranger 1st Land District	1,200 00	900 00	300 00
Pay of Sub-Agent 2nd Land District	1,200 00	950 00	250 00
Pay of Sub-Agent 3rd Land District	960 00	760 00	200 00
Pay of Sub-Agent 4th Land District	1,200 00	950 00	250 00
Pay of Sub-Agent 5th Land District	720 00	.....	720 00
Pay of Ranger 2nd Land District	720 00	570 00	150 00
Pay of Ranger 3rd Land District	720 00	570 00	150 00
Pay of Ranger 4th Land District	720 00	570 00	150 00
Pay of Ranger 5th Land District	720 00	570 00	150 00
Incidentals (including Land Patent Books, etc.)	5,250 00	5,156 12	93 88
Preliminary Roads and Trails	7,000 00	120 00	6,879 50
Expenses Filing Boundary Certificates	300 00	104 14	195 86

ESTIMATED RECEIPTS.

Land Revenue.		
General Leases	$100,000 00	
Olaa Leases	500 00	
Rents Right to Purchase Leases	15,000 00	
Interest	12,000 00	
Miscellaneous (Including Patent, Fees, &c.)	3,000 00	$130,000 00
Land Sales.		
On Time Payments	$20,000 00	
Purchase Right of Purchase Leases	60,000 00	
Old Homesteads	2,000 00	
Olaa Lots	2,000 00	
Cash Sales	2,000 00	$ 86,000 00
		$216,500 00

I consider the foregoing to be a conservative estimate of our receipts for the two years which will end June 30th, 1905.

Work that have been laid out as stated in my last report are being pushed to final completion and I can safely predict if there are no unforseen obstacles placed in our way, that the business of this office will be materially increased over that of the preceding year.

Respectfully submitted,

EDWARD S. BOYD,
Commissioner.